

JAMES and PHYLLIS SHAFFER,

**FLEMCo, LLC, a Missouri limited liability
Company,
2405 NE 78th St.,
Kansas City, Mo. 64118**

Plaintiffs,

HMC/CAH CONSOLIDATED, INC.
A Delaware corporation,

Nominal Plaintiff

v.

HEALTH ACQUISITION COMPANY LLC,
A West Virginia limited liability company,

EMPOWER H.I.S., LLC,
A Florida limited liability company

PAUL L. NUSBAUM,

STEVEN F. WHITE,

JORGE A. PEREZ,

Defendants

SHAREHOLDER DERIVATIVE COMPLAINT

(Jury Trial Demanded)

Plaintiffs James and Phyllis Shaffer and FLEMCo,LLC (“FLEMCo”) submit this Second Amended Shareholder Derivative Complaint (the “Complaint”) with leave of Court on behalf of Nominal Plaintiff HMC/CAH Consolidated, Inc. (“Nominal Plaintiff” or “HMC”) and against the individuals and entities named herein (collectively, “Defendants”).

Plaintiffs allege the following based upon information and belief, except as to those allegations concerning Plaintiffs, which are alleged upon personal knowledge. Plaintiffs’ information and belief is based upon, *inter alia*: (a) a review of the minute books and other business records of HMC; (b) a review of press releases and media reports issued and disseminated by Defendants; (c) a review of other publicly available information concerning HMC and Defendants, including articles in the news media; (d) complaints and related materials in litigation commenced against some or all of Defendants; and (e) a review of the investigative audit conducted by the Office of the Missouri State Auditor (the “State Auditor”) of the “billing scheme” engaged in by some of Defendants at Putnam County Memorial Hospital, Unionville, Missouri (“Putnam County Hospital”).

NATURE OF THE ACTION

1. This is a shareholders’ derivative action brought for the benefit of Nominal Plaintiff.

2. Until March 29, 2017, HMC was the owner of 100% of the member and shareholder interests in the following acute care rural community hospitals (collectively, the “HMC Hospitals”): CAH Acquisition Company #1, LLC, a Delaware limited liability currently doing business as *Washington County Hospital* in Plymouth, North Carolina (“CAH 1”); CAH Acquisition Company #2, LLC, a Delaware limited liability company currently doing business as *Oswego Community Hospital* in Oswego, Kansas (“CAH 2”); CAH Acquisition Company #3,

LLC, a Delaware limited liability company currently doing business as *Horton Community Hospital* in Horton, Kansas (“CAH 3”); CAH Acquisition Company #4, Inc., an Oklahoma corporation currently doing business as *Drumright Regional Medical Center* in Drumright, Oklahoma (“CAH 4”); CAH Acquisition Company #5, LLC, a Delaware limited liability company currently doing business as *Hillsboro Community Hospital* in Hillsboro, Kansas (“CAH 5”); CAH Acquisition Company #6, LLC, a Delaware limited liability company currently doing business as *I-70 Community Hospital* in Sweet Springs, Missouri (“CAH 6”); CAH Acquisition Company #7, LLC, a Delaware limited liability company currently doing business as *Prague Community Hospital* in Prague, Oklahoma (“CAH 7”); CAH Acquisition Company #11, LLC, a Delaware limited liability company currently doing business as *Lauderdale Community Hospital* in Ripley, Tennessee (“CAH 11”); CAH Acquisition Company #12, LLC, a Delaware limited liability company currently doing business as *Fairfax Community Hospital* in Fairfax, Oklahoma (“CAH 12”); and CAH Acquisition Company #16, LLC, a Delaware limited liability company currently doing business as *Haskell County Community Hospital* in Stigler, Oklahoma (“CAH 16”).

3. Defendants, through Defendant Health Acquisition Company LLC, acquired a controlling ownership interest in the HMC Hospitals and took over the business and financial affairs of the HMC Hospitals on March 29, 2017. This action seeks to remedy Defendants’ fraudulent acts, breaches of fiduciary duty and other illegal acts during the period beginning on or about March 5, 2017 and continuing through the present.

4. HMC has certain claims against each of Defendants as herein alleged. Plaintiffs made demand on HMC to pursue its claims against Defendants. By and through its duly constituted Board of Directors (the HMC Board”), HMC declined to do so. Accordingly, Plaintiffs are

bringing this action derivatively on behalf of HMC. A copy of HMC's response to Plaintiffs' demand is attached hereto and incorporated herein as Exhibit A.

PARTIES

5. Plaintiffs James and Phyllis Shaffer are individuals and citizens of Kansas.

6. Plaintiff FLEMMCo is a Missouri limited liability company which has two members, Mr. Trent Skaggs and Mr. Chris Hoke. Both individuals reside in and are citizens of the State of Missouri, residing at 5800 N. Grand Ave., Gladstone, Missouri 64118 and 600 S. Woodland Dr., Kansas City, Missouri 64118, respectively.

7. All Plaintiffs are shareholders of HMC and were shareholders of HMC at the time of the events herein alleged.

8. Nominal Plaintiff is a Delaware corporation with its principal place of business in Kansas City, Missouri.

9. Health Acquisition Company LLC ("Defendant HAC") is a West Virginia limited liability company with its principal office in West Virginia. On March 29, 2017, Defendant HAC acquired from HMC an 80% ownership interest in each of the HMC Hospitals. On information and belief, the current members of Defendant HAC are: Steve F. White, Catherine White, Paul L. Nusbaum and Harriet Nusbaum, all of whom are West Virginia citizens; and Jorge A. Perez, Ricardo J. Perez and Carlos Perez, all of whom are Florida citizens.

10. EMPOWER H.I.S. LLC ("Defendant EMPOWER HIS") is a Florida limited liability company with its principal place of business in Florida. On information and belief, the members of Defendant EMPOWER HIS are Jorge A. Perez, Ricardo J. Perez and Carlos Perez, all of whom are citizens of Florida. On information and belief, Defendant EMPOWER HIS was contracted to provide billing and other services to Defendant HAC and the HMC Hospitals as herein alleged.

11. Paul L. Nusbaum (“Defendant Nusbaum”) is an individual and citizen of West Virginia. On information and belief, Defendant Nusbaum is a manager of Defendant HAC and is a Managing Director of each of the HMC Hospitals.

12. Steven F. White (“Defendant White”) is an individual and citizen of West Virginia. On information and belief, Defendant White is a Manager of Defendant HAC and is a Managing Director of each of the HMC Hospitals.

13. Jorge A. Perez (“Defendant Perez”) is an individual and citizen of Florida. On information and belief, Defendant Perez is the Chief Executive Officer of Defendant EMPOWER H.I.S. and is a manager of Defendant HAC and is a Managing Director of each of the HMC Hospitals.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332. There is complete diversity of citizenship between the Plaintiffs and the Defendants and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

15. This Court has personal jurisdiction over each Defendant because each Defendant is either a legal entity that conducts business in and maintains operations within the State of Missouri and this District, and thus is subject to the general jurisdiction of this Court, or is an entity or individual who has committed acts within the State of Missouri pursuant to Mo. Supreme Court Rule 54.06 out of which these causes of action arise and has sufficient minimum contacts with this State so as to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

16. Specifically, the individual Defendants attended a meeting of the HMC Board in Kansas City, Missouri on March 6, 2017 (the “March 6th HMC Board Meeting”) at which they

made the false representations detailed herein and at which they asserted control over the HMC Hospitals. Thereafter, the individual Defendants caused or aided and abetted the illegal billing scheme to be perpetuated at CAH #6 located in this State and District and at least the individual Defendant Jorge Perez has been present in Missouri after March 6, 2017 to carry out the billing scheme herein described. Accordingly, said Defendants have transacted business, entered into contracts and committed tortious acts within the State of Missouri out of which these causes of action arose.

17. Defendant HAC has transacted business, committed tortious acts, owns, uses and possesses real estate, and entered into contracts within this State by virtue of having extended a 6.0 million dollar loan to HMC in December, 2013 and later exercising in Kansas City, Missouri (on March 6, 2017) an option to convert the loan to an 80% equity interest in the HMC Hospitals, entering into the Transition and Conversion Agreements herein described and to be performed at least in part in this State, and, through its agents Nusbaum, White and Perez, making the false representations to the HMC Board as herein described and using and possessing the real estate consisting of CAH #6 located in Missouri as set out in paragraph 2 above.

18. Defendant Empower H.I.S. has transacted business and entered into contracts within this State by virtue of providing financial and management services to CAH #6 and to an affiliate, Empower HMS, which has an office in Kansas City, Missouri at 1700 Swift Avenue, Ste. 200, North Kansas City, Missouri 64116.

19. Venue is proper in this Court pursuant to 28 U.S.C. §1391(a) and Western District Civil Rule 3.2 (b) because a substantial portion of the transactions and wrongs complained of herein, including Defendants' participation in the wrongful acts herein alleged and aiding in the commission of the fraud and/or the violation of fiduciary duties owed to HMC, occurred in this

District and in this Division and Defendants have received substantial compensation in this District by doing business here and engaging in numerous activities that have an effect in this District.

20. This action is not collusive in order to confer jurisdiction on this Court which it would otherwise lack.

21. Plaintiffs will fairly and adequately represent the interests of shareholders who are similarly situated in enforcing the rights of the corporation.

CERTAIN EVENTS AND AGREEMENTS

22. On March 29, 2017, Defendant HAC acquired, and it currently owns, a majority 80% member/shareholder interest in the HMC Hospitals. HMC currently owns a minority 20% of the member/shareholder interests in the HMC Hospitals.

23. In December 2013, Defendants Nusbaum and White formed Defendant HAC as a special purpose entity to make a loan of \$6 million to HMC. HMC secured the loan by pledging its member/shareholder interests in the HMC Hospitals to Defendant HAC. The loan documents included an option provision whereby Defendant HAC could acquire 80% of HMC's member/shareholder interests in the HMC Hospitals in exchange for the cancellation of the indebtedness.

24. On March 29, 2017, Defendants fraudulently caused and induced HMC to execute that certain Conversion to Equity Agreement (the "Conversion Agreement") whereby HMC sold 80% of its ownership interests in the HMC Hospitals to Defendant HAC in exchange for the cancellation of the \$6 million indebtedness. A copy of the Conversion Agreement is attached hereto and incorporated herein as Exhibit B.

25. On information and belief, Defendants Nusbaum and White sold 50% of the member interests in Defendant HAC to Defendant Perez, and to Ricardo Perez and Carlos Perez,

for a purchase price of \$6 million. The operating agreement of Defendant HAC was thereafter amended, *inter alia*, to reflect the change in ownership interests and to designate Defendants Nusbaum and Perez as the managers of Defendant HAC.

26. On May 9, 2017, HMC, the HMC Hospitals, Defendant HAC and certain other parties, executed that certain Agreement (the “Transition Agreement”) whereby, *inter alia*, Defendants fraudulently caused and induced HMC to cooperate and work with Defendant HAC and the other Defendants “in good faith to implement new operating agreements and governing documents” for the HMC Hospitals” and to ensure “a smooth and orderly transition of the operations of the [HMC] Hospitals” to Defendant HAC. A copy of the Transition Agreement is attached hereto and incorporated herein as Exhibit C.

27. On information and belief, following the execution of the Transition Agreement, Defendant HAC contracted Defendant EMPOWER H.I.S. to take over billing and revenue functions for the HMC Hospitals and contracted another affiliate of Defendant Perez, EMPOWER H.M.S., to take over management of the HMC Hospitals.

28. In June 2017, Defendants fraudulently caused and induced HMC to execute certain “Second Amended and Restated Limited Liability Company Agreements” for each of the HMC Hospitals (collectively, the “Amended Operating Agreements”) except CAH #4, which is an Oklahoma corporation. A copy of one of the Amended Operating Agreements, which are substantively the same, is attached hereto and incorporated herein as Exhibit D.

FORMATION OF CIVIL CONSPIRACY

29. On information and belief, on or prior to March 6, 2017, Defendants secretly agreed, *inter alia*, that Defendant HAC would exercise its option to acquire 80% of the member/shareholder interests in the HMC Hospitals for the purpose of using the HMC Hospitals

as instrumentalities in the operation of an illegal billing scheme, and of committing the other wrongful acts herein alleged. Such agreement constitutes a civil conspiracy in that Defendants agreed to do (and did do) unlawful acts or lawful acts in an unlawful way as herein alleged, and the actions taken by Defendants in furtherance of their agreement resulted in injury to HMC, and to the HMC Hospitals.

30. In furtherance of the civil conspiracy as herein alleged, Defendants, *inter alia*, used fraudulent inducements, made fraudulent misrepresentations and concealed material facts for the purpose of causing and inducing HMC to execute the Conversion Agreement, the Transition Agreement and the Amended Operating Agreements, and to otherwise cooperate with their takeover of the business and financial affairs of the HMC Hospitals.

31. In furtherance of the civil conspiracy as herein alleged, Defendants violated their fiduciary duties to HMC and the HMC Hospitals by, *inter alia*, using the HMC Hospitals as instrumentalities in an illegal billing scheme, filing false cost reports, delegating to Defendant Perez absolute authority to act on behalf of the HMC Hospitals, converting the banks accounts of HMC to their own use, misappropriating the funds of the HMC Hospitals to their own use, and violating, or causing the HMC Hospitals to violate, loan covenants to bank lenders.

32. Defendants aided and abetted and rendered substantial assistance to each other in the commission of the illegal acts herein alleged. In so doing, each Defendant acted with knowledge of the wrongdoing and was aware of his or its overall contribution to and furtherance of the civil conspiracy.

FRAUDULENT ACTS AND OMISSIONS

33. In anticipation of a special meeting of the HMC Board of Directors, the March 6th HMC Board Meeting, Defendant White, acting in concert with and on behalf of the other

Defendants, sent on March 5, 2017 an email to representatives of HMC (the “March 5th Email”). The purpose of the March 5th Email was to respond to HMC’s prior request for due diligence information concerning Defendant Perez and certain of his affiliates, and to propose to the HMC Board a laboratory testing program for the HMC Hospitals. A copy of the March 5th Email is attached hereto and incorporated herein as Exhibit E.

34. In the March 5th Email, Defendants represented to HMC, *inter alia*, that:

a. The proposed laboratory testing program was compliant with all applicable federal and state legal requirements, and with the requirements of the third-party payers with which the HMC Hospitals contracted (the “Insurance Companies”).

b. The contract managers of the HMC Hospitals had reviewed the laboratory testing program and would opine to HMC that the program was compliant with all applicable federal and state legal requirements, and with the contractual requirements of the Insurance Companies.

c. All specimens sent to the HMC Hospitals for testing will be primarily from individuals who reside in the states where the HMC Hospital that is to test the specimen is located.

d. All testing of specimens will be performed onsite at the laboratory maintained by the HMC Hospital that is to test the specimen in order to assure that the program was 100% compliant with all applicable federal, state and third-party payer requirements.

35. Defendants Nusbaum, White, and Perez attended the March 6th HMC Board Meeting. During their presentation, they reiterated to the HMC Board, *inter alia*, the

representations concerning the proposed testing laboratory program contained in the March 5th Email.

36. The HMC Board voted to take the proposed laboratory testing program under advisement for further due diligence. Immediately thereafter while the meeting was still in progress, Defendants Nusbaum and White gave written notice to the HMC Board that Defendant HAC was exercising its option to acquire 80% of the member/shareholder interests in the HMC Hospitals.

37. At all times relevant to this Complaint, Defendants concealed or suppressed from HMC and the HMC Board the fact that their true intent was to use the HMC Hospitals as instrumentalities in the operation of the illegal billing scheme hereinafter alleged.

THE SCHEME AT PUTNAM COUNTY HOSPITAL

38. The illegal billing scheme that Defendants intended to implement at the HMC Hospitals and did implement in at least some of them, was substantially similar to the scheme then being operated by Defendant Perez and Defendant EMPOWER H.I.S. and their affiliates at Putnam County Hospital, a 15-bed rural hospital located in Unionville, MO.

39. Defendants concealed or suppressed from HMC and the HMC Board the fact that their true intent was to implement the same illegal billing scheme at the HMC Hospitals.

40. On information and belief, in late 2016, Defendant Perez and Defendant EMPOWER H.I.S. and their affiliates put in place the illegal billing scheme at Putnam County Hospital. In the first six months of 2017, the volume of laboratory testing billed through Putnam County Hospital grew to more than 37,000 claims, or an increase over the hospital's previous laboratory billing of more than 43,000%.

41. The illegal billing scheme at Putnam County Hospital has been investigated by the State Auditor. The State Auditor described the billing practices at Putnam County as a "billing

scheme” where the vast majority of billings were for persons who never had been to or received medical services from Putnam County. The State Auditor noted that Putnam County “submits the bills for services [of the unrelated third-party labs that actually performed the tests, hereinafter the “Pass-Through Labs”] to the insurance companies, funneling millions of dollars through the hospital and reducing it to what is essentially a shell organization for labs across the country.”

42. The illegal billing scheme at Putnam County Hospital is currently the subject of pending litigation in the St. Joseph Division of this Court, as Case No. 5:18-cv-06037-DGK and captioned *RightChoice Managed Care, Inc. et al v. Hospital Partners, Inc. et al.* As alleged in that action, through the fraudulent billing scheme the defendants billed the insurers at rates higher than would have been allowed if the true identity of the laboratory performing the test had been disclosed and in many cases the claims would not have been eligible for payment at all.

THE SCHEME AT THE HMC HOSPITALS

43. Defendants have used all or some of the HMC Hospitals as instrumentalities in an illegal billing scheme as a means to enrich themselves at the expense of the Insurance Companies by billing for laboratory services that were not payable under, or otherwise in violation of, their payer contracts with the HMC Hospitals.

44. The Insurance Companies billed under the illegal billing scheme have included, *inter alia*, United Health Care, AETNA, CIGNA, Connecticut General Life Insurance Company, Humana, Pan American Life Insurance Company, BCBS, HEALTHSCOPE, Benefit Management, and UMR W. H. BRAUM.

45. On information and belief, Defendants Nusbaum, White and Perez, acting in their capacities as the Managing Directors of the HMC Hospitals, entered into a series of agreements with Defendant EMPOWER H.I.S. and other affiliates of Defendant Perez, which allowed them, and the various laboratories with which they contracted (collectively, the Pass-Through Labs”), to

use the HMC Hospitals as pass-through billing entities for testing performed by the Pass-Through Labs, in that the individuals who had their specimens tested by the Pass-Through Labs (a) had never been present at the HMC Hospitals, (b) had never been seen by a credentialed healthcare provider of the HMC Hospitals, and (c) resided in states other than those where the HMC Hospitals are located.

46. On information and belief, under the series of agreements with the Pass-Through Labs, Defendants submitted, or caused to be submitted to, the Insurance Companies claims under the names of one or more of the HMC Hospitals and used their National Provider Identifier (NPI), tax identifier and other billing information. All such claims were charged at the favorable reimbursement rates given to the HMC Hospitals as participating hospitals in the Insurance Companies' network of providers.

47. The claims submitted to the Insurance Companies for reimbursement include, *inter alia*, urine drug, blood and a variety of other laboratory tests.

48. Had Defendants and/or the Pass-Through Labs billed the claims directly to the Insurance Companies most of the claims would not have been paid by the Insurance Companies, and those that were paid would have been paid at substantially lower rates.

49. On information and belief, substantially all the individuals whose specimens were tested by the Pass-Through Labs resided in states outside those where the HMC Hospitals are located, and such individuals only connection to the HMC Hospitals was that their tests were passed through the HMC Hospitals for billing and payment, were never performed at the HMC Hospitals.

50. Defendants misrepresented and took active steps to conceal and suppress from HMC and the Insurance Companies the identity of the individuals whose specimens were tested

by the Pass-Through Labs, and that the fact that their specimens were never tested at the HMC Hospitals and were not billed or collected by the HMC Hospitals. Such steps included, *inter alia*, not providing any medical records or other information when requested by the Insurance Companies, and by not appealing or otherwise attempting to collect payment on any claim denied payment regardless of the reason.

51. Defendants engaged in such deceptions in order to take advantage of the HMC Hospitals' participating status and favorable reimbursement rates with the Insurance Companies. Defendants knew that the Insurance Companies were more likely to be deceived into paying for tests that appeared to be performed at participating HMC Hospitals rather than non-participating Pass-Through Labs. Defendants knew the HMC Hospitals' contracts with the Insurance Companies entitled them to substantially higher reimbursement rates than the Pass-Through Labs would receive if they billed the tests directly.

Details of the Scheme

52. Defendants took over the HMC Hospitals in March 2017 in order to use them to camouflage the true source of the laboratory claims so that the Insurance Companies would be deceived into paying claims at rates substantially higher than the Pass-Through Labs could bill directly.

53. To increase the revenues that they could generate from the illegal billing scheme, Defendants relied upon a network of referring healthcare providers, including pain clinics and drug detoxication facilities, who order large volumes of laboratory testing. Upon information and belief, Defendants pay the referring providers a portion of reimbursements they receive from the Insurance Companies as a kickback to ensure the continuous flow of specimens.

54. Once a test is ordered by a referring provider, one of the Pass-Through Labs performs the test and then sends the test results to Defendant EMPOWERHIS for billing. Upon receipt, Defendant EMPOWERHIS prepares the billing statement to make it appear to the Insurance Company as if the test was performed by one of the HMC Hospitals. On information and belief, the purpose of this deception is to trick the Insurance Company into believing that the higher reimbursement rate of the HMC Hospitals is applicable. After this “pass-through” billing process is completed, Defendant EMPOWERHIS submits the claim for payment.

55. Claims that are prepared for payment in this fashion contain material misrepresentations or omissions, all of which are intended to deceive the Insurance Companies into paying bogus claims at higher rates by concealing the fact that the test was performed by a Pass-Through Labs and not by one of the HMC Hospitals.

56. On information and belief, Defendants appropriated for their own use a substantial percentage of the revenue derived from this billing scheme.

BREACHES OF FIDUCIARY DUTY

57. The Amended Operating Agreements provide that each of the HMC Hospitals shall be controlled and managed by three Managing Directors, who are authorized to do or cause to be done all “lawful things” on behalf of the HMC Hospitals. Ex. D, section 4.1(a).

58. The Amended Operating Agreements provide, in relevant part, that:

Each Managing Director shall exercise their responsibility and duties to the Company, with the highest level of fiduciary duty of care and loyalty to the Company in a prudent business manner and will take all actions and make all votes in good faith consistent with such duties. Each Managing Director must discharge his duties in good faith, and in a manner that the Managing Director reasonably believes to be in the best interests of the Company. Ex. D, section 4.1(b).

59. On information and belief, Defendants Nusbaum, White and Perez were thereafter designated as, and are currently acting as, the Managing Directors for each of the HMC Hospitals, and accordingly under the Amended Operating Agreements owed the highest level of fiduciary duty to the hospitals and the limited liability companies that own them, including its minority member, HMC.

60. By reason of its 80% majority ownership interest in the HMC Hospitals, Defendant HAC is in a fiduciary relationship with HMC and owes to HMC a duty of highest care and loyalty, fair dealing and full, candid and adequate disclosure, as well as a duty to protect the value of HMC's minority 20% ownership interest in the HMC Hospitals, all according to the Delaware law that governs the Amended Operating Agreements of the HMC Hospitals.

61. Defendants Nusbaum, White and Perez, and Defendant HAC, have consistently and repeatedly failed to exercise their responsibility and duties to the HMC Hospitals and companies and to HMC, with the highest level of fiduciary duty of care and loyalty as herein alleged.

Involvement in Illegal Billing Scheme

62. Defendants Nusbaum, White and Perez, and Defendant HAC, have breached the Amended Operating Agreements and violated their fiduciary responsibility and duties to the HMC Hospitals and HMC by involving the HMC Hospitals in the illegal billing scheme and using the HMC Hospitals as instrumentalities to operate the illegal billing scheme as herein alleged.

Filing of Misrepresented and False Cost Reports and Overcharging for Services from Related Organizations

63. Defendants Nusbaum, White and Perez, and Defendant HAC, have breached the Amended Operating Agreements and violated their fiduciary duties to the HMC Hospitals and

HMC by filing, or causing the HMC Hospitals to file, misrepresented and false cost reports with The Centers for Medicare and Medicaid Services (“CMS”).

64. All of the HMC Hospitals are designated as Critical Access Hospitals by CMS. Critical Access Hospitals are rural hospitals that maintain no more than 25 inpatient beds and comply with the other applicable regulatory requirements.

65. Critical Access Hospitals receive cost-based reimbursement from CMS for Medicare services and from some (but not all) States for Medicaid services. Critical Access Hospitals are paid for most inpatient and outpatient services to Medicare patients at 101% of reasonable costs.

66. Critical Access Hospitals are required to submit annual cost reports to CMS containing, *inter alia*, provider information such as facility characteristics, utilization data, costs and charges by cost center (in total and for Medicare), Medicare settlement data, and financial statement data.

67. Cost reports contain certifications to safe guard CMS against mistaken and fraudulent requests for reimbursement. As a preface to the cost report certification, the following warning appears:

MISREPRESENTATION OR FALSIFICATION OF ANY INFORMATION CONTAINED IN THIS COST REPORT MAY BE PUNISHABLE BY CRIMINAL, CIVIL AND ADMINISTRATIVE ACTION, FINE AND/OR IMPRISONMENT UNDER FEDERAL LAW. FURTHERMORE, IF SERVICES IDENTIFIED IN THIS REPORT WERE PROVIDED OR PROCURED THROUGH THE PAYMENT DIRECTLY OR INDIRECTLY OF A KICKBACK OR WERE OTHERWISE ILLEGAL, CRIMINAL OR ADMINISTRATIVE ACTION, FINES AND/OR IMPRISONMENT MAY RESULT.

This warning is followed by the certification language itself:

CERTIFICATION BY OFFICER OR ADMINISTRATOR OF PROVIDER(S)

I HEREBY CERTIFY that I have read the above statement and that I have examined the accompanying electronically filed or manually submitted cost report And the Balance Sheet and Statement of Revenue and Expenses prepared by [name of facility, ID number of facility] for the cost reporting period beginning [date] and that to the best of my knowledge and belief, it is true, correct and complete statement prepared from the books and records of the provider *in accordance with applicable instructions*, except as noted. I further certify that I am familiar with *the laws and regulations regarding the provision of health care services, and that the services identified in this cost report were provided in compliance with such laws and regulations.* [emphasis added]

68. On information and belief, a material portion of the laboratory services identified in the filed cost reports for the HMC Hospitals were provided or procured by Defendants through the illegal billing scheme and through the payment directly or indirectly of kickbacks. Thus, the cost reports contained false information as to the cost of such laboratory testing and the certifications thereof were false.

69. In material part, 42 CFR 413.17(a) provides that “costs applicable to services and supplies furnished to the providers *by organizations related to the provider by common ownership or control are includable in the allowable cost of the provider at the cost to the related organization.*” [emphasis added]

70. In accordance with applicable instructions contained in the CMS Provider Reimbursement Manual, the Medicare provider must disclose in its cost report all related organizations and all transactions with related organizations and must reduce the costs attributable to all transactions with related organizations to the cost of the related organizations.

71. On information and belief, the filed cost reports of the HMC Hospitals contain misrepresentations or falsifications in that they do not (a) disclose all related organizations or all transactions with related organizations which have furnished the HMC Hospitals with services and supplies and/or (b) reduce the costs attributable to all transactions with related organizations to the cost of those organizations.

72. On information and belief, the related organizations that have furnished services or supplies to HMC Hospitals include, *inter alia*, Defendant EMPOWER H.I.S., The National Alliance of Rural Hospitals, HIPAA Guard, Reboot, and Regional Lab Outreach (RLO). These organizations are controlled by one or more of the Defendants, including Defendant Perez.

73. In addition to misreporting the cost of services from the related organizations, Defendants caused them to bill the HMC Hospitals excessive and unreasonable charges for the services.

74. On information and belief, the filing of misrepresented and false cost reports on behalf of the HMC Hospitals and making excessive and unreasonable charges for services was in furtherance of the conspiracy and an integral step in Defendants' use of the HMC Hospitals as instrumentalities to implement the illegal billing scheme and to commit other illegal acts herein alleged.

Delegation of Full Authority to Defendant Perez

75. Defendants Nusbaum, White and Perez, and Defendant HAC, have breached the Amended Operating Agreements and violated their fiduciary duties to the HMC Hospitals and HMC by delegating to Defendant Perez the sole and absolute authority to act on behalf of the HMC Hospitals.

76. On or about August 3, 2017, a meeting of the "governing members" of the HMC Hospitals was convened (the "August 3rd Meeting"). A copy of the minutes of the August 3rd Meeting are attached hereto and incorporated herein as Exhibit F.

77. HMC was not given any notice of the August 3rd Meeting, was unaware that August 3rd Meeting had been held by Defendants and was not attended by any representative of HMC.

78. The purpose of the August 3rd Meeting was, *inter alia*, to discuss all matters or relationships that the HMC Hospitals have or may have with “financial entities” including “all checking accounts involving deposits” by each of the HMC Hospitals and “payroll/operational expense accounts.”

79. By the unanimous vote, Defendant Perez was given the sole discretion to act on behalf of the HMC Hospitals on “all matters relating to bank accounts and lending matters including relationship with all banks and governmental entities.” This delegation of authority included the signing legal documents and checks, and “the authority to add individuals for purposes of signing checks on any and all accounts for all entities.”

80. On information and belief, the August 3rd Meeting was in furtherance of the conspiracy and an integral step in Defendants’ use of the HMC Hospitals as instrumentalities to implement the illegal billing scheme and to commit other illegal acts herein alleged.

Conversion of HMC Accounts

81. Defendants Nusbaum, White and Perez, and Defendant HAC, have breached the Amended Operating Agreements and violated their fiduciary duties to HMC by their conversion and unauthorized use of HMC’s business accounts at US Bank.

82. At all times relevant to this Complaint, HMC has owned and maintained, and currently owns and maintains, business accounts at US Bank.

83. Defendants converted HMC’s accounts to their own use, and are currently using, HMC’s accounts to receive and transfer the funds generated by Defendants’ use of the HMC Hospitals as instrumentalities for the illegal billing scheme and by the other illegal acts herein alleged.

84. The use of HMC's accounts by Defendants was not authorized by HMC and was done without its knowledge or consent. On information and belief, the purpose of Defendant's use of HMC's accounts is to conceal the origin of the funds obtained through the illegal billing scheme operated at and through the HMC Hospitals.

85. On information and belief, the conversion and unauthorized use of HMC's business accounts was in furtherance of the conspiracy and an integral step in Defendants' use of the HMC Hospitals as instrumentalities to implement the illegal billing scheme and to commit the other illegal acts herein alleged.

Misappropriation of Funds

86. Defendants Nusbaum, White and Perez, and Defendant HAC, have violated their fiduciary duties to the HMC Hospital and HMC by their misappropriation of funds in the amount of \$2,000,000 or more belonging to the HMC Hospitals.

87. On information and belief, Defendant White and Defendant Perez, and Defendant HAC first transferred the misappropriated funds from the accounts of the HMC Hospitals into the business accounts of HMC at US Bank, and then transferred such funds to their own domestic and foreign accounts and/or the accounts of other hospitals which Defendant Perez and his affiliates own or manage.

88. On information and belief, the misappropriation of cash funds belonging to the HMC Hospitals was in furtherance of the conspiracy and an integral step in Defendants' use of the HMC Hospitals as instrumentalities to implement the illegal billing scheme and to commit the other illegal acts herein alleged.

Bank Loans - Breach of Affirmative Covenants

89. Defendants Nusbaum, White and Perez, and Defendant HAC, have breached the Amended Operating Agreements and violated their fiduciary duties to the HMC Hospitals and HMC by causing the HMC Hospitals (as borrowers) and HMC (as guarantor) to breach certain affirmative covenants and guaranties given to banks in connections with secured loans (collectively the “Bank Loans”).

90. CAH 4 and CAH 6 have Bank Loans with First Liberty Bank (Oklahoma City OK). These Bank Loans are guaranteed by the United States Department of Agriculture (“USDA”) and have an aggregate principal balance of approximately \$17 million. CAH 5 has a Bank Loan with the Bank of Hays (Hays KS). This Bank Loan is guaranteed by the USDA and has a principal balance of approximately \$9.9 million. CAH 16 has an outstanding loan with Stone Bank (Little Rock AK). This Bank Loan is not guaranteed by the USDA and has principal balance of approximately \$2.4 million.

91. HMC guaranteed the performance of CAH 4, CAH 5, CAH 6 and CAH 16 under each of the Bank Loans.

92. The loan documents for the Bank Loans have, *inter alia*, affirmative covenants that require the borrowers to provide interim unaudited financial statements and annual audited financial statements, and to file Federal and state tax returns. The failure to provide such financial statements or to file such tax returns on a timely basis is an event of default under each of the Bank Loans.

93. In the Transition Agreement, Defendant HAC agreed to prepare the financial audit of the HMC Hospitals for FY 2016 and any later fiscal year.

94. On information and belief, Defendants Nusbaum, White and Perez, and Defendant HAC, have not caused CAH 4, CAH 5, CAH 6 and CAH 16 to provide interim or audited financial

statements to the banks, or to file tax returns. As a result of such failure, CAH 4, CAH 5, CAH 6 and CAH 16, are now in default of the Bank Loans, and HMC is in default of its guaranties.

Bank Loans - Breach of “Due-on-Sale” Clauses

95. Four of the Bank Loans contain “due-on-sale” clauses that stipulate, *inter alia*, that the full principal balance may be called due (repaid in full) upon a sale or transfer of a controlling interest in CAH 4, CAH 5 and CAH 16. If such a sale or transfer occurs without the consent of the banks, each bank has the right to call its Bank Loan due and payable in full.

96. The sale and transfer of 80% of HMC’s ownership interests in CAH 4, CAH 5 and CAH 16 pursuant to the Conversion Agreement required the consent of the banks. On information and belief, Defendants Nusbaum, White and Perez, and Defendant HAC, have not requested or obtained the consent of the banks to such sale and transfer. As a result of such failure, CAH 4, CAH 5 and CAH 16 are in default of the “due-on-sale” clauses in the Bank Loans.

97. On information and belief, the failure to comply with the loan covenants was a breach of the Amended Operating Agreements and Defendants’ fiduciary duties and was in furtherance of the conspiracy and an integral step in Defendants’ use of the HMC Hospitals as instrumentalities to implement the illegal billing scheme and to commit the other wrongful acts herein alleged.

FIRST CAUSE OF ACTION (Civil Conspiracy against all Defendants)

98. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 97 herein as if fully set forth.

99. Defendants conspired and agreed with each other and formed a meeting of the minds to (1) deprive HMC of its ownership and control of the HMC Hospitals through, *inter alia*,

the unlawful false representations described above and (2) to use the HMC Hospitals as instrumentalities in the illegal billing scheme and other wrongful acts herein alleged.

100. In furtherance of the conspiracy, Defendants made false and misleading statements and took unlawful acts to replace HMC as owner of the HMC Hospitals by fraudulently inducing HMC to execute the Conversion Agreement, the Transition Agreement and the Amended Operating Agreements, and to induce HMC to otherwise cooperate with Defendants' takeover of the HMC Hospitals as herein alleged.

101. In furtherance of the conspiracy, Defendants in fact utilized the HMC Hospitals as instrumentalities in the illegal billing scheme and other wrongful acts herein alleged.

102. Defendants' actions were intended to advance their own financial and business interests and were motivated by their desire to obtain control of the HMC Hospitals for the purpose of using them as instrumentalities in the illegal billing scheme and to take the other wrongful acts herein alleged.

103. Defendants' actions were without justification and malicious and were done for reasons not reasonably related to the protection or pursuit of a legitimate business interest.

104. HMC has been damaged by the conspiracy herein alleged as a result of, *inter alia*, the decrease in the value of its ownership interest in the HMC Hospitals. Whereas, upon information and belief, the value of HMC's 20% interest in the HMC Hospitals had an indicated value of 3.0 million dollars as of March 29, 2017, it has been rendered essentially valueless today by Defendants actions. In addition, HMC has sustained damage to its business reputation and has been sued by a third party as a result of Defendants actions and mismanagement as herein alleged.

105. As a result of Defendants' actions as co-conspirators, HMC has suffered actual damages in an amount in excess of \$75,000 to be proved at trial.

WHEREFORE, Plaintiffs pray for damages in excess of \$75,000 to be proved at trial, for punitive damages, for their costs and attorney's fees and pre-judgment interest as may be allowed by law, and for such other relief as the Court may deem just and proper.

SECOND CAUSE OF ACTION

(Fraudulent Misrepresentation against all Defendants)

106. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 97 herein as if fully set forth.

107. The representations contained in the March 5th Email and as reiterated by Defendants during the March 6th HMC Board Meeting were material and were false.

108. Defendants knew the representations were false or made the representations without knowledge of their truth.

109. The misrepresentations were made with the intention that HMC rely on them, and HMC did reasonably rely on the representations by, *inter alia*, executing the Conversion Agreement, the Transition Agreement and the Amended Operating Agreements.

110. HMC suffered damages as a result of relying on the false representations in an amount in excess of \$75,000.

WHEREFORE, Plaintiffs pray for damages in excess of \$75,000 to be proved at trial, for punitive damages, for their costs and attorney's fees and pre-judgment interest as may be allowed by law, and for such other relief as the Court may deem just and proper.

THIRD CAUSE OF ACTION

(Fraudulent Concealment against all Defendants)

111. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 97 herein as if fully set forth.

112. Defendants concealed or suppressed material facts from HMC including, *inter alia*, Defendants' intent to use the HMC Hospitals as instrumentalities in the operation of an illegal billing scheme that was substantially similar to the scheme being practiced by Defendant Perez and Defendant EMPOWER H.I.S., and their affiliates, at Putnam County Hospital.

113. Defendants had a duty to disclose those facts to HMC.

114. Defendants intentionally concealed or suppressed those facts with the intent to defraud HMC.

115. Defendants intentionally concealed or suppressed those facts for the purpose of inducing HMC to act differently than it would have if HMC had known the concealed and suppressed facts.

116. HMC was unaware of the facts and would have acted differently if it had known the concealed or suppressed facts in that HMC would not have executed the Conversion Agreement, the Transition Agreement and the Amended Operating Agreements, or otherwise cooperated with Defendants' takeover of the HMC Hospitals.

117. As a result of the concealment or suppression of the facts, HMC is entitled to recover damages in an amount in excess of \$75,000.

WHEREFORE, Plaintiffs pray for damages in excess of \$75,000 to be proved at trial, for punitive damages, for their costs and attorney's fees and pre-judgment interest as may be allowed by law, and for such other relief as the Court may deem just and proper.

FOURTH CAUSE OF ACTION

(Breach of Fiduciary Duty against Defendants Nusbaum, White and Perez)

118. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 97 herein as if fully set forth.

119. Defendants Nusbaum, White and Perez were, at all times relevant to the facts herein alleged, the Managing Directors of the HMC Hospitals and, in complicity with the other Defendants, controlled all business and financial affairs of the HMC Hospitals.

120. As Managing Directors of the HMC Hospitals, Defendants Nusbaum, White and Perez owned the highest level of fiduciary duty of care and loyalty to HMC as the minority member/shareholder, both under the Amended Operating Agreements and under law and thereby were obligated to conduct the business and financial affairs of the HMC Hospitals lawfully in a prudent business manner and to take all actions and make all votes in good faith consistent with such duty.

121. Defendants Nusbaum, White and Perez breached their fiduciary duties by causing the HMC Hospitals to engage in the illegal and fraudulent billing scheme, by causing HAC and EMPOWER H.I.S. to carry out said scheme and by the acts of misfeasance and malfeasance herein alleged, including but not limited to those set forth in paragraphs 54 through 94 above

122. As a result of the breaches of fiduciary duty by Defendants Nusbaum, White and Perez, HMC suffered damages in an amount in excess of \$75,000 as will be proved at trial.

WHEREFORE, Plaintiffs pray for damages in excess of \$75,000 to be proved at trial, for punitive damages, for their costs and attorney's fees and pre-judgment interest as may be allowed by law, and for such other relief as the Court may deem just and proper.

FIFTH CAUSE OF ACTION
(Breach of Fiduciary Duty against Defendant HAC)

123. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 97 herein as if fully set forth.

124. Defendant HAC was, at all times relevant to the facts herein alleged, the majority member/shareholder of the HMC Hospitals and, in complicity with the other Defendants, controlled all business and financial affairs of the HMC Hospitals.

125. As the majority member/shareholder of the HMC Hospitals, Defendant HAC owned the fiduciary duty of care and loyalty to HMC as the minority member/shareholder, and thereby was obligated to conduct the business and financial affairs of the HMC Hospitals with the utmost care, honesty, loyalty, and fidelity and to take all actions and make all votes in good faith consistent with such duty.

126. Defendant HAC breached its fiduciary duty to HMC by causing the HMC Hospitals to engage in the illegal and fraudulent billing scheme, by causing EMPOWER H.I.S. to carry out said scheme and by the acts of misfeasance and malfeasance herein alleged, all of which were undertaken to enrich HAC and its principals and to serve their self-interest.

127. As a result of the breaches of fiduciary duties by Defendant HAC, HMC suffered damages in an amount in excess of \$75,000.

WHEREFORE, Plaintiffs pray for damages in excess of \$75,000 to be proved at trial, for punitive damages, for their costs and attorney's fees and pre-judgment interest as may be allowed by law, and for such other relief as the Court may deem just and proper.

SIXTH CAUSE OF ACTION
(Conversion against all Defendants)

128. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 97 herein as if fully set forth.

129. HMC owned or had the right to the use and possession of its business accounts at US Bank at the time of Defendants' interference with, and exercise of dominion and control over, and conversion of such accounts to their own use.

130. HMC owned an interest in the cash assets of the HMC Hospitals at the time of Defendants' misappropriation of funds in the amount of \$2,000,000 or more belonging to the HMC Hospitals.

131. Defendants intentionally interfered with and exercised dominion and control over the accounts and misappropriated the funds of the HMC Hospitals, and such interference and misappropriation deprived HMC of its possession or use of the accounts and its ownership interest in the funds.

132. As a result of the interference of Defendants, HMC suffered damages in an amount in excess of \$75,000.

WHEREFORE, Plaintiffs pray for damages in excess of \$75,000 to be proved at trial, for punitive damages, for their costs and attorney's fees and pre-judgement interest as may be allowed by law, and for such other relief as the Court may deem just and proper.

SEVENTH CAUSE OF ACTION

(Breach of contract against HAC)

133. Plaintiffs incorporate herein by reference the allegations of paragraphs 1 through 97 above.

134. Defendant HAC breached the Amended Operating Agreements of the HMC Hospitals by causing, or in the alternative, knowingly permitting, the individual Defendants to breach their fiduciary responsibilities under the Amended Operating Agreements and by failing to insure that all business of the HMC Hospitals be carried out lawfully.

135. Defendant HAC further breached the Amended Operating Agreements by ceding to Defendant Perez the control of the principal operations of the HMC Hospitals and defaulting in

requiring that they be managed by three managers as set forth in the Amended Operating Agreements.

136. Defendant HAC fraudulently breached the Conversion Agreement and the Transition Agreement by failing to manage and control the HMC Hospitals in a lawful manner and in good faith.

WHEREFORE, Plaintiffs pray for damages in excess of \$75,000, for punitive damages, for their costs herein incurred, for pre-judgment interest and attorneys' fees as may be allowed by law, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

Wood Law Office LLC

By: /s/C. Brooks Wood
C. Brooks Wood, Mo. Bar 24077
1600 Genesee St., Ste. 455
Kansas City, Missouri 64102
816-469-5005
bwood@bwoodlawllc.com

Attorney for Plaintiffs

I certify that on this 14th day of March, 2019, I filed the foregoing document electronically with the Clerk of the Court by using the CM/ECF system, a true copy thereby to be furnished to all counsel of record.

/s/C. Brooks Wood

EXHIBIT A

April 26, 2018

Via Email: bwood@bwoodlawllc.com
C. Brooks Wood, Esq.
Wood Law Office LLC
3111 Wyandotte, Ste 103
Kansas City, Missouri 64111

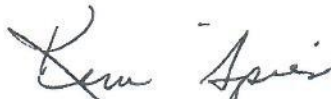
Re: HMC/CAH Consolidated, Inc.

Dear Mr. Wood:

This will acknowledge receipt of your letter dated April 23, 2018, advising that certain named shareholders of HMC/CAH Consolidated, Inc. ("HMC") demand that the Board of Directors of HMC commence legal action by HMC against Health Acquisition Company LLC and Rural Hospitals of America, LLC for reasons stated in such letter.

The Vice Chairman of the Board of Directors called a meeting of the Board, which was conducted on this date. The Board of Directors has considered the request and voted not to institute litigation.

Very truly yours,


Kimberley S. Spies

KSS:arc
cc: Harold M. Goss, Esq.

{33053 / 68339; 809283. }

EXHIBIT B

CONVERSION TO EQUITY AGREEMENT

This CONVERSION TO EQUITY AGREEMENT is entered into as of the date stated below ("Effective Date"), by and between HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Seller"), and HEALTH ACQUISITION COMPANY, LLC ("Buyer"). Seller and Buyer shall sometimes be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. Buyer made a loan to Seller, whereby Seller became indebted to Buyer in the original principal amount of Six Million Dollars (\$6,000,000), as evidenced by the Loan Documents (All capitalized terms used herein that are not otherwise defined in context shall have the meanings assigned thereto in that certain Loan and Pledge Agreement between the Parties.)

B. In connection with the Loan, Seller granted to Buyer the right and option to purchase the Option Interests for Six Million Dollars (\$6,000,000) to be paid, in full, by Buyer's conversion of the Obligations represented by the Loan Documents into Interests equal to eighty percent (80%) of the total Interests of the Company outstanding on the Exercise Date, as evidenced by its execution and delivery of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Defined Terms. Capitalized terms used in this Cancellation Agreement but not otherwise defined herein have the meanings given such terms in the Loan Documents.

2. Conversion of Loan. Buyer and Seller hereby agree that the Obligations evidenced by the Loan Documents are hereby converted into Interests equal to eighty percent (80%) of the total Interests of the Company outstanding on the Exercise Date, and that the Obligations are of no further force and effect. Seller hereby acknowledges that Buyer has returned to Seller the original of the Note.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Conversion to Equity Agreement as of this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Conversion to Equity Agreement

{33053 / 68339; 751539. }

4 OF 1,494
HEATH ACQUISITION COMPANY, LLC

By: St F White
STEVEN F WHITE, Manager

Conversion to Equity Agreement

{33053 / 68339; 751539.2 }

OPERATING AGREEMENTS CERTIFICATION PAGE

By signing this Operating Certification Page, HEALTH ACQUISITION COMPANY, LLC ("Assignee") accepts and agrees to be a party to and bound by and perform all the terms and provisions of the Operating Agreements of the LLCs, to wit:

CAH Acquisition #1 LLC, d/b/a Washington County Hospital
CAH Acquisition #2 LLC, d/b/a Oswego Community Hospital
CAH Acquisition #3 LLC, d/b/a Horton Community Hospital
CAH Acquisition #5, LLC, d/b/a Hillsboro Community Hospital
CAH Acquisition #6, LLC, d/b/a 1-70 Community Hospital
CAH Acquisition 7 LLC, d/b/a Prague Community Hospital
CAH Acquisition 9 LLC, d/b/a Seiling Community Hospital
CAH Acquisition 10 LLC, d/b/a Yadkin Valley Community Hospital
CAH Acquisition 11 LLC, d/b/a Lauderdale Community Hospital
CAH Acquisition 12 LLC, d/b/a Fairfax Community Hospital
CAH Acquisition 16 LLC, d/b/a Haskell County Community Hospital

Assignee hereby agrees to be a Member of each of the LLCs with respect to the Interests assigned from HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor"), to Assignee (the "Assigned Interests").

HEALTH ACQUISITION COMPANY, LLC

~~HEALTH ACQUISITION COMPANY, LLC~~ *SFW, AWA*

By: *SFW*
SFW, Manager

Dated: 3/29/17

Assignor, in its capacity as the sole Member of each of the LLCs hereby executes this Operating Agreements Certification Page for the purpose of confirming the assignment of Assigned Interests from Assignor to Assignee in accordance with the Operating Agreements and consenting to the admission of Assignee as a Member of each of the LLCs with respect to the Assigned Interests in accordance with the Operating Agreements.

HMC/CAH CONSOLIDATED, INC.

By: *James Shaffer*
James Shaffer, President

Attest: *Rosana Privitera Biondo*
Rosana Privitera Biondo, Secretary

Dated: March 27, 2017

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company #1 LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

STEVEN F WHITE
HEATH ACQUISITION COMPANY, LLC

By: STEVEN F WHITE
STEVEN F WHITE, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company #2 LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Stewart F. White
HEATH ACQUISITION COMPANY, LLC

By: Stewart F. White
Stewart F. White, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company #3 LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

SFW
HEATH ACQUISITION COMPANY, LLC

By: Steven F White
Steven F White, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company #5, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

4 STFW, LLC
HEATH ACQUISITION COMPANY, LLC

By: STFW, LLC
STEVEN F. WILK, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company 6, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

Such assignment is subject to a first priority pledge of such membership interests to holders of certain Shareholders Notes as contemplated in the Option Purchase Agreement.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

STFC, LLC
HEATH ACQUISITION COMPANY, LLC

By: STEVEN F. WHITE
STEVEN F. WHITE, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company 7, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

SEW, LLC
HEATH ACQUISITION COMPANY, LLC

By: Steven F. White
Steven F. White, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company 9, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

SFW/MA
HEATH ACQUISITION COMPANY, LLC

By: Steven F White
Steven F White, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to U80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company 10, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company 11, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

St F White
HEATH ACQUISITION COMPANY, LLC

By: St F White
Steven F White, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company 12, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By:

James Shaffer
James Shaffer, President

Attest:

Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

By SPW, 10/11
HEATH ACQUISITION COMPANY, LLC

By:

Steven F White
Steven F White, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By:

James Shaffer
James Shaffer, President

Attest:

Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF INTERESTS SEPARATE FROM CERTIFICATE(S)

For good and valuable consideration, the receipt and adequacy of which is acknowledged, HMC/CAH CONSOLIDATED, INC., a Delaware corporation ("Assignor") assigns, conveys and transfers all of right, title, and interest in and to 80 units (80%) represented by Certificate(s) No. (s) N/A inclusive, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of CAH Acquisition Company 16, LLC (the "Assigned Interests"), including any and all of Assignor's rights to participate in the management and affairs of the LLCs and to be and exercise any rights of a Member.

Assignee hereby accepts such assignment, conveyance and transfer, and agrees to be bound by and to hold such Assigned Interests subject to the terms and conditions of the Operating Agreements as to the affairs of the LLC and the conduct of its business.

[Remainder of page intentionally left blank.]

This Assignment is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

STU, 2017
HEATH ACQUISITION COMPANY, LLC

By: STU
Steven F White, Manager

CONSENT TO ASSIGNMENT OF MEMBER INTEREST

HMC/CAH CONSOLIDATED, INC., being the sole Member of each of the LLCs, consents to the transfer, and assignment of the Interests made by the above Assignment of Limited Liability Company Interests, and agree that the Assignee has become a Member in each of the LLCs having, to the extent assigned, the rights and the powers of a Member, subject to the restrictions and liabilities of a Member. This Consent is made and received on this 29 day of March, 2017.

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Assignment of Interests Separate from Certificate

{33053 / 68339; 751539. }

ASSIGNMENT OF STOCK SEPARATE FROM CERTIFICATE(S)

For Value Received, HMC/CAH CONSOLIDATED, INC. does hereby sell, assign and transfer to HEALTH ACQUISITION COMPANY, LLC 800 shares of the Stock of CAH Acquisition Company #4, Inc., an Oklahoma corporation ("Corporation") represented by Certificate(s) No. 4, standing in the name of HMC/CAH CONSOLIDATED, INC. on the books of the Corporation.

HMC/CAH CONSOLIDATED, INC. does hereby irrevocably constitute and appoint HEALTH ACQUISITION COMPANY, LLC attorney to transfer the said Stock on the books of the Corporation, with full power of substitution in the premises.

Such assignment is subject to a first priority pledge of such stock to Sun Finance, Inc. and to a second priority pledge of such stock to the holders of Larry Arthur Secured Claim, DFP, LLC Secured Claim, CAROJOTO Unsecured Claim, Fidelity Security Life Insurance Co. Secured Claim, Rosalia Hall Secured Claim, Richard Jones Secured Claim, and Sun Finance Secured Claim.

[Remainder of page intentionally left blank.]

HMC/CAH CONSOLIDATED, INC.

By: James Shaffer
James Shaffer, President

Attest: Rosana Privitera Biondo
Rosana Privitera Biondo, Secretary

Dated as of this 29 day of March, 2017.

Assignment of Stock Separate from Certification
{33053 / 68339; 751539. }

AFFIDAVIT

State of West Virginia

County of Kanawha

BE IT KNOWN THAT on this 29th day of March, 2017, before me, the undersigned Notary Public, appeared **Steven F. White** (the *Affiant*), in his capacity as the Manager of Health Acquisition Company LLC, a West Virginia limited liability company, who, upon being duly sworn, stated on his oath as follows:

1. On December 17, 2013, HMC/CAH Consolidated, Inc. executed and delivered, as maker ("Maker"), a promissory note payable to Health Acquisition Company LLC having an initial principal indebtedness of \$6,000,000 (collectively, the *Original Note*).
2. Health Acquisition Company LLC lost possession of the Original Note, neither as result of a transfer nor a lawful seizure.
3. Health Acquisition Company LLC cannot reasonably obtain possession of the Original Note because the whereabouts of those instruments cannot be determined.
4. The Affiant has made a due and diligent search for the lost Original Note.
5. A true and correct copy of the Original Note is attached hereto as Exhibit A.
6. Health Acquisition Company LLC agrees to deliver the original Note to Maker if located.
7. Health Acquisition Company LLC warrants and represents that it has not endorsed, negotiated, transferred or conveyed the Note or otherwise disposed of any interest in the Note and agrees to indemnify Maker against any claim made by a third party against Maker for payment on the original Note.
8. Further, the affiant sayeth naught.

By: _____

Steven F. White

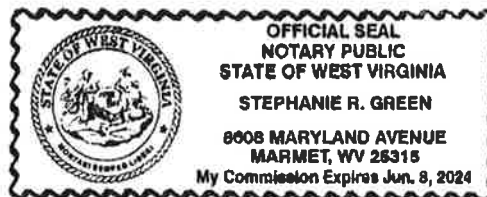
SWORN TO AND SUBSCRIBED BEFORE ME, this the 29th day of March, 2017.

Witness my signature and official seal.

Stephanie R. Green
NOTARY PUBLIC

My Commission Expires:

June 8, 2024



PROMISSORY NOTE

U.S. \$6,000,000

December 17, 2013

1. Debtor's Promise to Pay. FOR VALUE RECEIVED, the undersigned, HMC/CAH CONSOLIDATED, INC, a Delaware corporation, having its principal office at 1100 Main Street, Suite 2350, Kansas City, Missouri 64105 (together with its successors and assigns, the "Debtor"), promises to pay to the order of HEALTH ACQUISITION COMPANY, LLC, a West Virginia limited liability company, having an office at P.O. Box 18387, 332 6th Avenue, S. Charleston, WV 25303 (together with its successors and assigns and any subsequent holder of this Note, the "Lender"), or such other place as Lender from time to time may designate, the principal sum of SIX MILLION DOLLARS (\$6,000,000), together with interest at the fixed rate of seven (7%) percent per annum ("Interest") from the date hereof on unpaid principal and on unpaid interest until paid, in full with principal and interest payable to be paid in accordance with the terms of this Note and the Loan Agreement.

2. Definitions. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Loan and Pledge Agreement dated as of the date hereof between the Credit Parties and Lender ("Loan Agreement").

3. Security. This Note and the Obligations are secured by, among other things, the Loan Agreement, which constitutes a first lien upon and security interests in Debtor's right, title, and interest in and to Pledged Collateral.

4. Principal Payment at Maturity; No Right to Prepay. The entire unpaid principal amount of this Note shall be due and payable on the Maturity Date. Without the prior written consent of Lender, Debtor shall not have any right to prepay the principal amount of this Note prior to the Maturity Date.

5. Payment of Interest. Debtor shall pay to Lender principal, interest and other fees and charges as follows:

- (a) Interest on the unpaid principal amount of this Note shall be (i) payable monthly in arrears commencing on the first day of March 1, 2014, and on the first day of each month thereafter until March 1, 2024 (the "Maturity Date") and (ii) calculated on the basis of a 360 day year and the actual number of days elapsed; *provided*, that if for any reason the payment of interest due to Note Acquisition from any of the Credit Parties is deferred, then Lender shall defer its right to receive interest payments on the Loan, on an equal basis and for the same period of time.
- (b) Interest not paid when due (without giving effect to any grace or notice period or cure right contained herein or in any other Loan Document) shall accrue like Interest as principal and shall be immediately payable.

- (c) All agreements between the Credit Parties and Lender are expressly limited, so that in no event or contingency, whether because of the advancement of the Loan, acceleration of maturity of the unpaid principal balance, or otherwise, shall the amount paid or agreed to be paid to Lender for the use, forbearance, or retention of the money to be advanced under this Note exceed the highest lawful rate permissible under applicable usury laws. If, under any circumstances, fulfillment of any provision of the Loan Documents or any other agreement pertaining to this Note, after timely performance of such provision is due, shall involve exceeding the limit of interest validity prescribed by law that a court of competent jurisdiction deems applicable, then, *ipso facto*, the obligations to be fulfilled shall be reduced to the limit of such validity. If under any circumstances, Lender shall ever receive as interest an amount that exceeds the highest lawful rate, the amount that would be excessive interest shall be applied to reduce the unpaid principal balance under this Note and not to pay interest, or, if such excessive interest exceeds the unpaid principal balance under this Note, such excess shall be refunded to Debtor. This provision shall control every other provision of the Loan documents or any other agreements between the Credit Parties and Lender.

6. Method of Making Payments. All payments of interest, principal and fees shall be made in lawful money of the United States in immediately available funds, without counterclaim or setoff and free and clear of, and without any deduction or withholding for, any taxes or other payments by wire transfer to Lender to such account as Lender shall from time to time designate. Payments shall be credited on the Business Day on which immediately available funds are received prior to 3:00 P.M. Central Standard Time. Payments received after 3:00 P.M. Central Standard Time shall be credited to the Loan on the next Business Day. Payments which are by check, which Lender may at its option accept or reject, or which are not in the form of immediately available funds shall not be credited to the Loan until such funds become immediately available to Lender, and, with respect to payments by check, such credit shall be provisional until the item is finally paid by the payor bank.

7. Application of Payments. Except to the extent otherwise required by law or by the express terms of any Loan Document, Lender shall apply and credit funds received by Lender pursuant to this Note or any other Loan Document in such manner and order of priority as Lender shall determine in Lender's sole discretion; provided, however, that in the absence of any contrary determination by Lender, such funds shall be applied and credited (a) first, to pay, or reimburse Lender for amounts advanced by Lender (other than principal of the Loan evidenced by this Note) pursuant to any provision of the Loan Documents (including without limitation those fees, charges, costs and expenses described in Section 8 and Section 9), (b) second, to pay any Late Charges due under this Note or any other Loan Document, (c) third, to pay any other sums due under the Loan Documents, excluding interest earned or accrued under this Note and principal, (d) fourth, to pay any interest earned or accrued under this Note and (f) fifth, to pay principal outstanding under this Note.

8. Billings. Lender may submit monthly billings reflecting payments due. Neither the failure of Lender to submit a bill, nor any error in any such bill shall excuse Debtor from the obligation to make full payment of all Debtor's payment obligations when due.

9. Default Rate. From and after any Event of Default, any unpaid principal, accrued interest, Late Charges and other amounts payable under this Note or any other Loan Document

shall bear interest at a per annum rate equal to the lesser of nine (9%) percent, or the maximum rate of interest which may be collected from Debtor under applicable law.

10. Late Charges. If any payment under this Note (whether of fees, interest or principal (due on the Maturity Date or upon any acceleration of this Note) is not paid within five (5) Business Days of the date on which the payment is due, Debtor shall pay to Lender in addition to the delinquent payment and without any requirement of notice or demand by Lender except as may be imposed by law, a charge equal to five (5%) percent of the amount of the delinquent payment ("Late Charge"). Late Charges are (a) payable in addition to, and not in limitation of, the Default Rate, (b) intended to compensate Lender for administrative and processing costs incident to late payments, (c) not interest, and (d) not subject to refund or rebate or credit against any other amount due. Debtor expressly acknowledges and agrees that this Late Charges provision is reasonable under the circumstances existing on the date of this Note, which it would be extremely difficult and impractical to fix Lender's actual damages arising out of any late payment and that the Late Charge shall be presumed to be the actual amount of such damages incurred by Lender. In addition, in the event that any loan payment check tendered by Debtor to Lender is not honored upon presentment for demand, Debtor shall pay to Lender upon demand an amount equal to Twenty-Five Dollars (\$25.00). No provision in this Note (including the provisions for Late Charges and for additional interest on any amounts remaining unpaid after the Maturity Date) shall be construed as in any way excusing Debtor from its obligation to make each payment under this Note promptly when due.

11. Event of Default. Any of the following shall constitute an "Event of Default" under this Note: (a) except as provided in the following sentence, any payment under this Note (whether of principal or interest or both) is not paid on or before the date that it is due (irrespective of whether Debtor has received any notice of such nonpayment), or (b) any covenant or obligation made or undertaken for the benefit of Lender in the Loan Documents is not fully performed within the time required by the terms thereof, or (c) the occurrence of any other Event of Default (as such term is defined in any of the Loan Documents). If a regularly scheduled monthly installment of interest, or the principal amount payable on the Maturity Date, that is due and payable on the first day of the month, is paid on or before the fifth (5th) Business Day of the month in which it is due, it shall not constitute an Event of Default. Upon an Event of Default, Lender may elect, without any further notice or demand to Debtor, to declare all principal and accrued but unpaid interest under this Note immediately due and payable. Any failure of Lender to make such election following an Event of Default shall not constitute a waiver of Lender's right to make the election in the event of any subsequent Event of Default.

12. Costs of Collection and Enforcement. Debtor and all endorsers jointly and severally promise to pay (a) all reasonable attorneys' fees and other costs and expenses of any nature incurred by Lender in connection with this Note or the enforcement of Lender's rights and remedies under the other Loan Documents, including reasonable attorneys' fees incurred by Lender for legal advice concerning Lender's rights and remedies (whether or not an Event of Default in fact occurs, and whether or not any remedies are in fact exercised), (b) all reasonable attorneys' fees, as determined by the court, and all other costs, expenses and fees incurred by Lender in connection with any suit or proceeding instituted to collect this Note or to enforce Lender's rights and remedies under the Loan Documents, whether or not such suit or proceeding is prosecuted to judgment or conclusion; (c) all reasonable attorneys' fees and other costs and expenses incurred by Lender in connection with any bankruptcy, insolvency or reorganization proceeding or receivership involving Debtor or any affiliate of Debtor, including any guarantor, and including all reasonable attorneys' fees incurred in making any appearances in any such proceeding or in seeking relief from any stay or injunction issued in or arising out of

any such proceeding; and (d) all reasonable attorneys' fees and other costs and expenses incurred in any appellate proceedings and any post-judgment proceedings to collect or enforce the judgment.

13. Offsets. No indebtedness evidenced by this Note shall be deemed to have been offset or shall be offset or compensated by all or part of any claim, cause of action, counterclaim or cross-claim, whether liquidated or unliquidated, which Debtor now or hereafter may have or may claim to have against Lender. This Note and the other Loan Documents are not subject to any right of rescission, set-off, abatement, diminution, counterclaim or defense as against Lender, including, without limitation, any holder of this Note or other assignee of Lender, including the defense of usury, and the operation of any of the terms of the Loan, or the exercise of any right thereunder, will not render the Loan unenforceable, in whole or in part, or subject to any right of rescission, set-off, abatement, diminution, counterclaim or defense, including the defense of usury and whether or not such rescission, set-off, abatement, diminution, counterclaim or other defense arises out of or relates to the Loan Documents or any agreement between Debtor on the one hand or Lender or any affiliate of Lender on the other hand.

14. Certain Waivers. Debtor and all endorsers jointly and severally waive diligence, grace, demand, presentment for payment, exhibition of this Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights against the indebtedness evidenced by this Note, and agree to any and all extensions or renewals from time to time without notice and to any partial payments of this Note made before or after maturity and that no such extension, renewal or partial payment shall release any one or all of them from the obligation of payment of this Note or any installment of this Note, and consent to offsets of any sums owed to any one or all of them by Lender at any time.

15. Loss, Theft, Destruction or Mutilation of Note. In the event of the loss, theft or destruction of this Note, upon Debtor's receipt of a reasonably satisfactory indemnification agreement executed in favor of Debtor by the Person who held this Note immediately prior to its loss, theft or destruction, or in the event of the mutilation of this Note, upon Lender's surrender to Debtor of the mutilated Note, Debtor shall execute and deliver to such party or Lender, as the case may be, a new promissory note in form and content identical to this Note in lieu of the lost, stolen, destroyed or mutilated Note.

16. Notices. The provisions of the Loan Agreement concerning the giving and receipt of notices shall apply to any notice or other communication given under this Note.

17. Construction of Note. Captions in this Note are included solely for convenience and are not to be referred to in construing or interpreting this Note. Defined terms may be used in the singular or the plural, as the context requires. All references to time of day mean the then applicable time in Kansas City, Missouri, unless otherwise expressly provided. Each reference in this Note to a particular section is a reference to a section of this Note unless otherwise expressly indicated. The words "include," "includes" and "including" are deemed to be followed by the phrase "without limitation". Unless the context in which it is used otherwise clearly requires, the word "or" has the inclusive meaning represented by the phrase "and/or". Unless the context in which it is used otherwise clearly requires, all references to days, weeks and months mean calendar days, weeks and months. If any portion of this Note is declared invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Note and the remaining portions shall continue in full force and effect. Time is strictly of the essence of each and every provision of this Note.

18. Payment on Business Days. If any day on which a payment is due under this Note or any of the Loan Documents is not a Business Day, then the payment shall be due on the next day following which is a Business Day.

19. Records of Payment. The records of Lender shall be *prima facie* evidence of the amount owing on this Note.

20. No Partnership. Debtor acknowledges and agrees that the provisions of this Note or any other Loan Documents shall not create a partnership or joint venture between the Credit Parties and Lender. Accordingly, nothing contained in this Note or the other Loan Documents shall obligate or be deemed to obligate Lender to pay any costs, fees or expenses of the Credit Parties, or to reimburse them for any such costs or otherwise. In addition, nothing in this Note or the other Loan Documents shall be deemed to imply that Lender has the right to control or review the Credit's Parties' operation of any business or businesses owned or operated by them.

21. GOVERNING LAW. THE PARTIES HERETO AGREE THAT THE VALIDITY, INTERPRETATION, ENFORCEMENT AND EFFECT OF THIS PROMISSORY NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE.


22. WAIVER OF JURY TRIAL. THE PARTIES HEREBY WAIVE ANY RIGHT THAT THEY MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS PROMISSORY NOTE, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF LENDER AND/OR THE PARTIES WITH RESPECT TO THE LOAN OR IN CONNECTION WITH THIS PROMISSORY NOTE, OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES UNDER THEREUNDER OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.

IN WITNESS WHEREOF, Debtor has caused this Promissory Note to be executed and delivered as of the date and year first above written.

[SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE TO PROMISSORY NOTE
MADE BY HMC/CAH CONSOLIDATED, INC. AND HEALTH ACQUISITION COMPANY, LLC
DATED DECEMBER 17, 2013**

HMC/CAH CONSOLIDATED, INC.

By: 
Gordon Lansford, Vice President

Attest: 
Jim Shaffer, Assistant Secretary

EXHIBIT C

AGREEMENT

THIS AGREEMENT is between **Health Acquisition Company LLC**, a West Virginia limited liability company (*HAC*), **HMC/CAH Consolidated, Inc.**, a Delaware corporation (*HMC*), **CAH Acquisition Company #1**, a Delaware limited liability company (*CAH 1*), **CAH Acquisition Company #2, LLC**, a Delaware limited liability company (*CAH 2*), **CAH Acquisition Company #3, LLC**, a Delaware limited liability company (*CAH 3*), **CAH Acquisition Company #4, Inc.**, an Oklahoma corporation (*CAH 4*), **CAH Acquisition Company #5, LLC**, a Delaware limited liability company (*CAH 5*), **CAH Acquisition Company #6, LLC**, a Delaware limited liability company (*CAH 6*), **CAH Acquisition Company #7, LLC**, a Delaware limited liability company (*CAH 7*), **CAH Acquisition Company #9, LLC**, a Delaware limited liability company (*CAH 9*), **CAH Acquisition Company #10, LLC**, a Delaware limited liability company (*CAH 10*), **CAH Acquisition Company #11, LLC**, a Delaware limited liability company (*CAH 11*), **CAH Acquisition Company #12, LLC**, a Delaware limited liability company (*CAH 12*), **CAH Acquisition Company #16, LLC**, a Delaware limited liability company (*CAH 16* and, which CAH 1, CAH 2, CAH 3, CAH 4, CAH 5, CAH 6, CAH 7, CAH 9, CAH 10, CAH 11, CAH 12 and CAH 16 collectively, the *Hospitals*), **HMC/CAH Note Acquisition LLC**, a Missouri limited liability company (*Note Acquisition*), **Fidelity Security Life Insurance Company**, a Missouri corporation (*FSLIC*), **Rosalia Hall (Hall)**, **Richard Jones (Jones)**, **DFP, LLC**, a Missouri limited liability company (*DFP*), **CAROJOTO, LLC**, a Missouri limited liability company (*CAROJOTO*), and Larry Arthur (*Arthur*),

By that certain Second Amended and Restated Revolving Note dated September 16, 2010 (the *Gemino Note*), made by HMC, CAH 2, CAH 3, CAH 6, CAH 7, CAH 10, CAH 11, CAH 12 and CAH 16 and payable to the order of Note Acquisition, as successor in interest to Gemino Healthcare Finance, LLC, a loan was made having an initial principal indebtedness of \$6,000,000. As of the date of this agreement, the outstanding balance owing under the Gemino Note is \$3,554,404.19.

By that certain Promissory Note dated January 24, 2011 (the *FSLIC Note*) and related documents, made by HMC, CAH 4 and CAH 6 and payable to the order of FSLIC, a loan was made having an initial principal balance of \$1,500,000. As of the date of this agreement, the outstanding principal and interest balance of the FSLIC Note is \$1,380,147.

By that certain Promissory Note dated January 24, 2011 (the *Hall Note*) and related documents, made by HMC, CAH 4 and CAH 6 and payable to the order of Hall, a loan was made having an initial principal balance of \$100,000. As of the date of this agreement, the outstanding principal and interest balance of the Hall Note is \$92,009.

By that certain Promissory Note dated January 24, 2011 (the *Jones Note*) and related documents, made by HMC, CAH 4 and CAH 6 and payable to the order of Jones, a loan was made having an initial principal balance of \$50,000. As of the date of this agreement, the outstanding principal and interest balance of the Jones Note is \$46,005.

By that certain Promissory Note dated January 24, 2011 (the *DFP Note*) and related documents, made by HMC, CAH 4 and CAH 6 and payable to the order of DFP, a loan was

made having an initial principal balance of \$250,000. As of the date of this agreement, the outstanding principal and interest balance of the DFP Note is \$230,024.

By that certain Promissory Note dated January 24, 2011 (the *CAROJOTO Note*) and related documents, made by HMC, CAH 4 and CAH 6 and payable to the order of CAROJOTO, a loan was made having an initial principal balance of \$100,000. As of the date of this agreement, the outstanding principal and interest balance of the CAROJOTO Note is \$92,009.

By that certain Promissory Note dated January 24, 2011 (the *Arthur Note* and with the FSLIC Note, the Hall Note, the Jones Note, the DFP Note and CAROJOTO Note, collectively the *Shareholder Notes*) and related documents, made by HMC, CAH 4 and CAH 6 and payable to the order of Arthur, a loan was made having an initial principal balance of \$50,000. As of the date of this agreement, the outstanding principal and interest balance of the Arthur Note is \$46,005.

The outstanding principal and interest balances of each of the Gemino Note and the Shareholder Notes as of the date of this Agreement are referred to as the “*Current Shareholder Note Obligations*.”

HMC, CAH 10 and Rural Community Hospitals of America LLC, a West Virginia limited liability company (*RCHA*), are party to a civil action pending in the United States District Court, Middle District of North Carolina, styled as Carrie Hutson, et al. vs. CAH Acquisition Company 10, LLC d/b/a Yadkin Valley Community Hospital, HMC/CAH Consolidated, Inc. and Rural Community Hospitals of America, LLC, Case No. 15-CV-00742 (the *WARN Litigation*). The civil action was subject to mediation on November 10, 2016, resulting in a mediation settlement agreement requiring certain payments to be made to the plaintiffs by the defendants as more particularly described therein and as described in a proposed Stipulation of Settlement and Release anticipated to be entered into among the parties to the WARN Litigation.

RCHA and HMC are party to a Management Agreement with each of Hospitals (collectively, the *Management Agreements*), pursuant to which certain of the management of each of the Hospitals is delegated to RCHA subject to certain rights of HMC, all as more particularly described in the Management Agreements.

On March 7, 2017, HMC and CAH 6 filed a civil action in the Circuit Court of Jackson County, Missouri, styled as CAH Acquisition Company 6, LLC, and HMC/CAH Consolidated, Inc., vs. Health Acquisition Company LLC, Case No. 1716-CV05357 (the *MO Action*).

On March 15, 2017, the amount of \$500,000 (the *Contested Funds*) was withdrawn from an HMC account and deposited into accounts that could not be accessed by the Hospitals or RCHA. HAC disputes that this transfer was permitted under the Management Agreements.

On March 17, 2017, HAC filed a civil action in the Circuit Court of Kanawha County, West Virginia, styled as Health Acquisition Company LLC vs. HMC/CAH Consolidated, Inc., Civil Action No. 17-C-371 (the *WV Action*).

The parties agree that this Agreement is not an admission of liability with respect to any matters provided herein.

The parties agree as follows:

1. Gemino Note and Shareholder Notes.

(a) Within three days of the date of this agreement, the dollar amount of Contested Funds will be delivered by HMC to (i) pay those identified expenses of HMC and (ii) to be applied on a pro rata basis to the respective Current Shareholder Note Obligation of each of the holders of the Gemino Note and Shareholder Notes by wire transfer, all as set forth on the attached Schedule I(a) in accordance with wire instructions provided to HMC by each holder of the Gemino Note and Shareholder Notes.

(b) On June 1, 2017 and July 1, 2017, HAC will pay to the holders of the Gemino Note the accrued but unpaid interest owing on the Gemino Note.

(c) On July 15, 2017, HAC will pay the holders of the Gemino Note and the Shareholder Notes the entirety of the outstanding principal and accrued but unpaid interest then owing on the Gemino Note and the Shareholder Notes, plus attorneys' fees, incurred in the collection of the Gemino Note and the Shareholder Notes, respectively, in consideration of the assignment of the Gemino Note and the Shareholder Notes to HAC. The Gemino Note and the Shareholder Notes will be assigned to HAC in accordance with a Note Transfer Agreement to be negotiated between HAC and the holders of the Gemino Note and the Shareholder Notes.

(d) The borrowers under the Gemino Note and the Shareholder Notes are in default under the terms of the Gemino Note and the Shareholder Notes and all related documents. In consideration of the foregoing provisions of this Paragraph 1, the holders of the Gemino Note and the Shareholder Notes will forbear taking action against the borrowers under the Gemino Note and the Shareholder Notes until the earlier of July 15, 2017 or a breach of this agreement. .

2. WARN Litigation. The Hospitals assume the obligations of HMC under the Mediated Settlement Agreement entered into by the parties to the WARN Litigation on November 10, 2016 and subsequently contained in the Stipulation of Settlement and Release. The Hospitals will be responsible for all unpaid legal fees and expenses of Constangy Brooks Smith & Prophete LLP in its role as joint counsel for the defendants in the WARN Litigation. Hospitals agree to indemnify and defend HMC for any and all claims, costs and fees that arise out of the WARN lawsuit, Stipulation of Settlement and Release or the claims raised therein.

3. Management Agreements. HMC's rights under the Management Agreements are terminated as of March 29, 2017 and all past, present and future obligations of HMC thereunder are canceled and deemed satisfied. The Hospitals will pay wages and employee benefits, and will be responsible for all other payments associated with employment of hospital personnel.

4. Dismissals. Within five days following the date of this agreement, CAH 6 and HMC will dismiss, with prejudice, the MO Action and HAC will dismiss, with prejudice, the

WV Action. Each party to such MO Action and WV Action will be responsible for payment of its own court costs and attorneys' fees in connection with (i) all disputes alleged in or pertaining to the MO Action and WV Action, and (ii) the negotiation of this Agreement.

5. **HMC Audits.** If HAC or any affiliate of HAC requests that HMC complete an audit for 2016 or any later year, HMC agrees to cooperate in providing the documents necessary to complete such audit, provided that the Hospitals must advance all of HMC's costs and expenses incurred in the performance and completion of the audit.

6. **Lenders.** HAC will work with lenders for which HMC has provided a guaranty as a collateral support for any outstanding financings of any Hospital, and if any lender makes demand on HMC under any such guaranty, HAC will contribute to HMC 80% of the aggregate amount paid by HMC under any such guaranty.

7. **Release.** As additional consideration for forbearance by the holders of the Gemino Note and the Shareholder Notes, each borrower and all other parties obligated as counter-parties to the holders of the Gemino Note and the Shareholder Notes and related documents, as well as their agents, servants, attorneys, representatives, insurers, sureties, successors, predecessors, affiliates, assigns, partners, employees and all other persons affiliated in any way with them, respectively, hereby forever release and discharge the holders of the Gemino Note and the Shareholder Notes and their agents, servants, attorneys, representatives, insurers, sureties, successors, predecessors, affiliates, assigns, partners, employees and all other persons affiliated in any way with them from any and all past or present claims, suits, demands, causes of action, liens, damages, charges, penalties, expenses, costs of court, and attorneys' fees arising out of the Gemino Note or the Shareholder Notes and related documents.

8. **Existing Settlement Arrangements.** The Hospitals will indemnify, defend, and hold harmless HMC for existing monetary obligations, in addition to those referenced in Section 2, including installment payments, which are joint obligations of a Hospital or Hospitals and HMC for judgments or agreements reached in settlement or resolution of disputes for sums owed to third parties.

9. **Further Actions.** The parties agree to execute and deliver or cause to be executed and delivered such documents and instruments and shall take, or cause to be taken, such further or other actions as may be necessary to effectuate the actions contemplated by this Agreement.

10. **Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties hereto, as well as their successors and assigns, representatives and administrators.

11. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provisions may be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provisions were so excluded and shall be enforceable in accordance with the remaining terms.

12. **Modification.** This agreement may be modified only by written agreement signed by all parties to the Agreement.

13. **Authority.** Each party represents and warrants for itself that it has exclusive authority to execute this Agreement and if such person is signing on behalf of another person or entity, that it may bind that person or entity to the terms of this Agreement. HMC, in its capacity as an owner of 20% of the outstanding equity interests of the Hospitals (i) consents to the Hospitals' execution of this agreement and (ii) agrees that HAC may designate an officer to sign this agreement on behalf of the Hospitals.

14. **Cooperation of HMC and HAC.** HMC and HAC, as owners of the Hospitals, will work together in good faith to implement new operating agreements and governing documents reflecting multiple members for each of the Hospital entities. HMC agrees to provide HAC with access to HMC records as needed for compliance and cost-reporting purposes in order to provide a smooth and orderly transition of the operations of the Hospitals.

15. **Counterparts.** The parties hereto agree that this Agreement may be executed in counterparts and that each counterpart when executed will be deemed as the original.

The parties are signing this Agreement effective as of May 9, 2017.

Signature Pages Follow

HMC/CAH Consolidated, Inc.

By:

Name: Steve Dunn

Title: Vice Chairman

[Remainder of page intentionally left blank.]

HMC/CAH Consolidated, Inc.

By:

Name: Steve Dunn

Title: Vice Chairman

Health Acquisition Company LLC

By:

Name: Steve White

Title: SATK Mgr

CAH Acquisition Company #1, LLC

By: SATK

Its: Authorized Representative

CAH Acquisition Company #2, LLC

By: SATK

Its: Authorized Representative

CAH Acquisition Company #3, LLC

By: SATK

Its: Authorized Representative

CAH Acquisition Company #4, Inc.

By: SATK

Its: Authorized Representative

CAH Acquisition Company #5, LLC

By: SZFKH
Its: Authorized Representative

CAH Acquisition Company #6, LLC

By: SZFKH
Its: Authorized Representative

CAH Acquisition Company 7, LLC

By: SZFKH
Its: Authorized Representative

CAH Acquisition Company 9, LLC

By: SZFKH
Its: Authorized Representative

CAH Acquisition Company 10, LLC

By: SZFKH
Its: Authorized Representative

CAH Acquisition Company 11, LLC

By: SZFKH

Its: Authorized Representative

CAH Acquisition Company 12, LLC

By: S. J. Hall

Its: Authorized Representative

CAH Acquisition Company 16, LLC

By: S. J. Hall

Its: Authorized Representative

HMC/CAH Note Acquisition LLC

By: _____
Name: _____
Title: _____


Fidelity Security Life Insurance Company

By: _____
Name: _____
Title: _____

Rosalia Hall

Richard Jones

HMC/CAH Note Acquisition LLC

By: 
Name: Steve Dunn
Title: Manager

[Remainder of page intentionally left blank.]

Fidelity Security Life Insurance Company

By: 

Name: PETER A. LINDQUIST

Title: VP

Rosalia Hall

Richard Jones

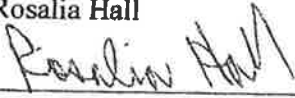


By: _____
Name: _____
Title: _____

Fidelity Security Life Insurance Company

By: _____
Name: _____
Title: _____

Rosalia Hall



Richard Jones

DFP, LLC


By: _____
Name: _____
Title: _____

CAROJOTO, LLC

By: _____
Name: _____
Title: _____

Larry Arthur

DFP, LLC

By: 
Name: Timothy S. Dean
Title: Manager

[Remainder of page intentionally left blank.]

CAROJOTO, LLC

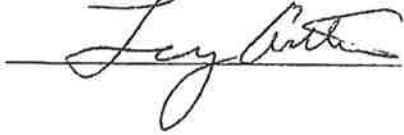
By: Rosana Priester Brando
Name: Rosana Priester Brando
Title: Manager

Larry Arthur

CAROJOTO, LLC

By: _____
Name: _____
Title: _____

Larry Arthur

A handwritten signature in cursive script, appearing to read "Larry Arthur", is written over a horizontal line.

DFP, LLC

By: _____
Name: _____
Title: _____

CAROJOTO, LLC

By: _____
Name: _____
Title: _____

Larry Arthur

By its signature below, the undersigned acknowledges and agrees with the provisions of Section 3 of this Agreement, concerning termination of the Management Agreements.

Rural Community Hospitals of America, LLC

By: SZFAH
Name: STEVEN F WHITE
Title: MANAGER

Schedule 1(a)
Disbursement of Contested Funds

Expenses:

White Goss (Feb. to current)	111,000
Steptoe & Johnson	9,050
Gemino Advance to S&J	<u>10,000</u>
Total	130,050

Net Amount:	369,950
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Total	500,000
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Noteholder	Balance	Pro Rata Percentage	Pro Rata Distribution of \$369,950
Gemino	3,554,404	0.65	240,467.50
FSLIC	1,380,147	0.25	92,487.50
Hall	92,009	0.02	7,399.00
Jones	46,005	0.01	3,699.50
DFP	230,024	0.04	14,798.00
CAROJOTO	92,009	0.02	7,399.00
Arthur	46,005	0.01	3,699.50
Total	5,440,603	100%	369,950.00

EXHIBIT D

**SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY
AGREEMENT**

CAH ACQUISITION COMPANY #1, LLC

THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT is between the undersigned Members of CAH Acquisition Company #1, LLC, a Delaware limited liability company (the *Company*). Capitalized terms used but not defined herein have the meaning assigned to such terms on Schedule 1.

On March 13, 2007, HMC/CAH Consolidated, Inc., a Delaware corporation (*HMC*), caused the Company to be formed as a limited liability company under the Delaware Limited Liability Company Act by the filing of a Certificate of Formation (the *Certificate*) with the Delaware Secretary of State's Office. Promptly thereafter, HMC was issued the entirety of the outstanding Interests. Thereafter, HMC executed one or more Limited Liability Company Agreements for the Company, governing HMC's duties, obligations, rights, privileges and preferences as the sole Member of the Company.

On March 29, 2017, Health Acquisition Company LLC, a West Virginia limited liability company (*HAC*), acquired 80% of the outstanding equity Interests from HMC.

HMC and HAC desire to amend and restate the Limited Liability Company Agreement of the Company to accurately reflect the duties, obligations, rights, privileges and preferences of Members of the Company.

The Members agree as follows:

1 BUSINESS PURPOSES; OFFICES

1.1 Name and Business Purpose. The name of the Company shall be as stated in the Certificate. The business purpose of the Company is to own and operate a critical access hospital and related medical facilities located in Plymouth, North Carolina, under the name of Washington County Hospital (the *Hospital*) and to do any and all things necessary, appropriate or incidental thereto. The Company is formed only for such business purpose and shall not be deemed to create any declaration or agreement by the Company or the Members with respect to any other activities whatsoever other than the activities within such business purpose.

1.2 Powers. In addition to the powers and privileges conferred upon the Company by law and those incidental thereto, the Company shall have the same powers as a natural Person to do all things necessary or convenient to carry out its business and affairs.

1.3 Principal Office. The principal office of the Company shall be located at such places as the Managing Directors determine from time to time.

1.4 Registered Office and Registered Agent. The location of the registered office and the name of the registered agent of the Company in the State of Delaware shall be as stated in the Certificate. The registered office and registered agent of the Company in the State of Delaware may be changed, from time to time, by the Managing Directors.

1.5 Amendment of the Certificate. The Company shall amend the Certificate at such time or times and in such manner as may be required by the Act and this agreement.

1.6 Liability of Member. No Member, solely by reason of being a Member, shall be liable, under a judgment, decree or order of a court, or in any other manner, for a debt, obligation or liability of the Company, whether arising in contract, tort or otherwise, or for the acts or omissions of any other Member of the Company. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this agreement or the Act shall not be grounds for imposing liability on the Members for liabilities of the Company.

1.7 Interest Not Acquired for Resale. Each Member is acquiring an Interest for the Member's own account as an investment and without an intent to distribute such Interest, which Interest has not been registered under the Securities Act of 1933, as amended, or any state securities laws, and the Member's Interest may not be resold or transferred without appropriate registration or the availability of an exemption from such requirements.

1.8 Status of Agreement. This agreement is intended to constitute and does constitute a written operating agreement within the meaning and for the purposes of the Act, even during periods (if ever) where the Company has only one Member. To the extent required or contemplated by the Act or applicable law, the Company constitutes a party to this agreement.

1.9 General Statutory Override. To the extent permitted by law, the provisions of this agreement govern over all provisions of the Act that would apply but for (and inconsistently with) this agreement. For each question (a) with respect to which the Act provides a rule (a ***Default Rule***) but permits a limited liability company's written operating agreement to provide a different rule and (b) which is addressed by this agreement, the Default Rule does not apply to the Company.

2 CAPITAL CONTRIBUTIONS; LOANS; UNITS OF INTERESTS

2.1 Interests. Schedule 2 sets forth the Interest held by each Member.

2.2 Additional Capital Contributions. Each Member has made a contribution to the capital of the Company as set forth on the Company's books and records. No Member shall be obligated to make any other additional contributions to the capital of the Company.

2.3 Capital Accounts. A Capital Account shall be maintained by the Company for each Member and any transferee. No interest will be paid on capital contributions.

(a) In general, each Member's Capital Account shall be increased by:

- (1) the amount of money contributed by the Member;
- (2) the fair market value of property contributed by the Member (net of liabilities secured by the property that the Company is considered to assume or take subject to); and

- (3) allocations of Income to such Member.
- (b) In general, each Member's Capital Account shall be decreased by:
 - (1) the amount of money distributed to such Member;
 - (2) the fair market value of property distributed to such Member (net of liabilities secured by the distributed property that the Member is considered to assume or take subject to); and
 - (3) allocations of net Losses to such Member.

Notwithstanding anything to the contrary contained herein, each Capital Account shall be determined and maintained in accordance with the provisions of Treas. Reg. §1.704-1(b)(2)(iv) as the same may be amended or revised. The provisions of this Section **Error! Reference source not found.2.3** as they relate to the maintenance of Capital Accounts are intended, and shall be construed, and, if necessary, modified by the Managing Directors to cause the allocations of profits, losses, income, gain and credit to have substantial economic effect under the regulations promulgated under Section 704(b) of the Code, in light of the distributions made to the Members and the capital contributions made by the Members.

2.4 Capital Withdrawal Rights, Interest. Except as expressly provided in this agreement or as otherwise determined by the Managing Directors, (a) no Member may be entitled to withdraw or reduce the Member's Capital Account or to receive any Distributions, (b) no Member may be entitled to demand or receive any Distributions in any form other than in cash, and (c) no Member may be entitled to receive or be credited with any interest on any balance in the Member's Capital Account at any time.

2.5 Loans. A Member may, but is not required to, make loans to the Company in such amounts, at such times, and on such terms and conditions as may be determined by the Managing Directors. Loans by a Member to the Company shall not be considered as contributions to the capital of the Company.

2.6 Authorized Units. The Company shall be authorized to issue not more than 100 units of Interests, each unit representing a one percent Interest in the Company. The number of authorized units may be increased only with the unanimous written consent of the Members. No unit of Interest is certificated. Certificates previously issued, if any, shall be void and ineffective to evidence units of membership Interest. The Interests do not constitute a security within the meaning of Article 8 of the UCC.

2.7 Transfers of Interest. Transfers of units of Interests shall be made only upon the books of the Company, kept at the office of the Company. The designee of the Managing Directors shall be the transfer agent of the Company.

2.8 Registered Members. Only Members whose names are registered in the books of the Company shall be entitled to be treated by the Company as the holders and owners in fact of the units of Interests standing in their respective names, and the Company shall not be bound to recognize any equitable or other claim to or interest in such units of Interest on the part of any

other person, whether or not it shall have express or other notice thereof, except as expressly provided by the Act.

3 ALLOCATIONS AND DISTRIBUTIONS

3.1 Non-Liquidation Cash Distributions. The amount, if any, of Available Cash may be determined by the Managing Directors and distributed to the Members, ratably in accordance with their Percentage Interest, at such times as determined by the Managing Directors.

3.2 Liquidation Distributions. Liquidation Proceeds shall be distributed in the following order of priority:

(a) To the payment of debts and liabilities of the Company (including to the Members to repay loans made by a Member to the Company) and the expenses of liquidation;

(b) Next, to the setting up of such reserves as the Person required or authorized by law to wind up the Company's affairs may reasonably deem necessary or appropriate for any disputed, contingent or unforeseen liabilities or obligations of the Company, provided that any such reserves shall be paid over by such Person to an independent escrow agent, to be held by such agent or its successor for such period as such Person shall deem advisable for the purpose of applying such reserves to the payment of such liabilities or obligations and, at the expiration of such period, the balance of such reserves, if any, shall be distributed as hereinafter provided; and

(c) The remainder to the Members in accordance with their Percentage Interest.

3.3 Income, Losses and Credits. The Company's Income or Loss, as the case may be, and applicable credits, for each fiscal year of the Company, as determined in accordance with such method of accounting as may be adopted for the Company, shall be allocated, subject to Section 2.3, to the Members in accordance with their Percentage Interest for both financial accounting and income tax purposes, except as otherwise provided for herein.

3.4 Tax Withholding. Notwithstanding any other provision of this agreement, the Managing Directors may take any action that the Managing Directors determine is necessary or appropriate to cause the Company to comply with any withholding requirements established under any federal, state or local tax law, including, without limitation, withholding on any Distributions to the Members. For all purposes of this Article 3, any amount withheld on any Distributions and paid over to the appropriate governmental body may be treated as if such amount had in fact been distributed to the Member.

3.5 Reserves. The Managing Directors shall have the right to establish, maintain and expend reserves to provide for working capital, for future maintenance, repair or replacement of the Property, for debt service, for future investments and for such other purposes as the Managing Directors may deem necessary or advisable.

4 MANAGEMENT

4.1 Management by Managing Directors.

(a) General. Subject to all other provisions of this agreement, the business and affairs of the Company shall be managed by at least three individuals (each a **Managing Director**). The Managing Directors shall be designated by the affirmative vote or written consent of Members holding a Majority Interest. Except as expressly limited by law, the Certificate or this agreement, the Property and the business of the Company shall be controlled and managed by the Managing Directors. The Managing Directors shall have and are vested with all powers and authorities, except as expressly limited by law, the Certificate, or this agreement, to do or cause to be done any and all lawful things for and in behalf of the Company, to exercise or cause to be exercised any or all of its powers, privileges and franchises, and to seek the effectuation of its objects and purposes. In limitation of the powers conferred by this agreement or by statute, the Managing Directors are expressly prohibited from making, repealing, altering, amending or rescinding any or all of this agreement or the Certificate. The Managing Directors act by vote or written consent of a simple majority of the then-serving Managing Directors.

(b) Fiduciary Duty. Each Managing Director shall exercise their responsibility and duties to the Company with the highest level of fiduciary duty of care and loyalty to the Company, in a prudent business manner, and will take all actions and make all votes in good faith consistent with such duties. Each Managing Director must discharge his duties in good faith, and in a manner that the Managing Director reasonably believes to be in the best interests of the Company. Each Managing Director may rely on information received from other persons if that reliance is consistent with the duties of the Managing Director under this agreement. Each Managing Director shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports, or statements presented to the Company by any Person as to matters the Managing Director reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports, or statements as to the value and amount of the assets, liabilities, profits, losses, or Available Cash or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

(c) Delegation of Authority to Adopt Bylaws. At any time and from time to time, the Managing Directors may in their discretion adopt bylaws and rules and procedures (collectively, the **Bylaws**) that are consistent with this agreement, for the purpose of enabling the Managing Directors to carry out their responsibilities. Bylaws shall be subject to the approval of the Members, and the Members retain the right to rescind any authority or procedures delegated to the Managing Directors.

(d) Delegation of Authority and Appointment of Officers. At any time and from time to time, the Managing Directors may in their discretion designate any Person to carry out the decisions of the Managing Directors or the Members, including, but not limited to, the execution of any instruments on behalf of the Company. The Managing Directors shall have the power and authority to appoint individuals to act as officers of the Company or to act in such other capacities or on such committees as the Managing Directors deem advisable from time to

time, and any such individuals shall serve for such periods and hold such positions, have such power and authority and be subject to such restrictions or limitations, and be entitled to such compensation, as the Managing Directors may determine from time to time. Any number of titles may be held by the same individual. Any appointment or delegation of authority may be revoked, and any individual may be removed from any officer position or other capacity, at any time by the Managing Directors, with or without cause.

(e) Advisory Directors. The Bylaws may authorize and establish procedures for the appointment of advisory directors for the purpose of providing advice and assistance to the Managing Directors in regard to the business and affairs of the Company, provided such advisory directors shall not have any authority to bind, or otherwise take any actions on behalf of, the Managing Directors or the Company.

(f) Restrictions on Authority. Neither the Managing Directors, nor any officer, or other representative of the Company, shall be authorized to act in connection with the following matters, except with the affirmative vote or written consent of Members holding a Majority Interest.

- (1) Make any loan to any Member;
- (2) Enter into or amend any transaction between the Company and an affiliate of either Member, or establish or pay any salaries, bonuses, or other forms of compensation to Persons who are employees or affiliates of either Member for services as employees, consultants, agents or representatives of the Company;
- (3) Terminate, dissolve or windup the Company;
- (4) Commingle the Company's funds with those of any other Person;
- (5) Change the status of the Company from one in which management is vested in the Managing Directors to one in which management is vested in the Members;
- (6) No Managing Director or officer of the Company shall enter into any transaction or agreement on behalf of the Company, nor otherwise take any action on behalf of the Company, unless such transaction, agreement or action is permitted or authorized in accordance with the terms of this agreement.

Notwithstanding any provision of this agreement to the contrary, the Company shall not take enter, approve, cause, consent or permit the Company to take any of the following actions without the prior unanimous written consent of the Members:

- (a) make any amendment to or restatement of the Certificate or this Agreement;
- (b) effect a sale of all or substantially all of the assets of the Company, or any merger, reorganization, consolidation, or sale of Interests by the Company;

- (c) require the Members to execute and deliver notes, endorsements, letters of credit, guaranties, security bonds, indemnity agreements and similar documents on behalf of or for the benefit of the Company;
- (d) issue any Interests, raise capital, make capital calls, or admit new Members;
- (e) cause a change in the purpose of the Company; or
- (f) initiate a proceeding for the bankruptcy of the Company.

4.2 Actions by Members. Any consent, approval, decision or other action required or permitted to be taken by the Member, as contemplated in this agreement or required by the Act or other applicable law, may be taken without a meeting, without prior notice and without a vote, if one or more written consents setting forth the consent, approval, decision or other action to be taken shall be signed by Members holding a Majority Interest or unanimously, as applicable. A copy of each written consent to action will be delivered to each Member. Each Member shall designate a Member Representative (and one alternate Member Representative to serve in the absence or unavailability of the designated Member Representative) by notice to the Managing Directors. The ***Member Representative***, which must be an individual, represents the Member at all meetings of the Members and serves as the Member's sole designee to cast votes or execute consents presented for consideration of the Members. A Member may change the identity of its Member Representative by notice to the Managing Directors, which notice shall be effective on receipt by the Managing Directors.

4.3 Confidential Information. Each Member acknowledges that the Confidential Information is valuable property of the Company and undertakes that for so long as it is a Member, and thereafter until such information otherwise becomes publicly available other than through breach of this Section, it shall:

- (a) Treat the Confidential Information as secret and confidential;
- (b) not disclose (directly or indirectly, in whole or in part) the Confidential Information to any third party except with the prior written consent of Managing Directors;
- (c) not use (or in any way appropriate) the Confidential Information for any purpose other than the performance of the business of the Company and otherwise in accordance with the provisions of this agreement; and
- (d) limit the dissemination of and access to the Confidential Information to such of the Company's Members, Managing Directors, officers, employees, agents or representatives as may reasonably require such information for the performance of Company business and ensure that any and all such persons observe all the obligations of confidentiality contained herein.

4.4 Execution of Documents Filed with Secretary of State of Delaware. Persons designated from time to time by the Managing Directors shall be authorized to execute and file with the Secretary of State of Delaware any document permitted or required by the Act. Such documents shall be executed and filed only after the Managing Directors, or the Members

to the extent applicable, have approved or consented to such action in the manner provided herein. The Members hereby waives any requirement under the Act of receiving a copy of any document filed with the Secretary of State of Delaware.

4.5 Indemnification.

(a) The Company agrees to indemnify any Member, Managing Directors or officer who was or is a party, or who is threatened to be made a party, to any threatened, pending, or completed civil, criminal, administrative, or investigative action, suit, or proceeding, other than an action by or in the right of the Company, because such Member, Managing Director or officer is or was a Managing Director, Member, officer, employee, or agent of the Company. The Company agrees to indemnify such Member, Managing Director or officer against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement that actually and reasonably were incurred by such Member, Managing Director or officer in connection with the action, suit, or proceeding if he, she or it acted in good faith and in a manner he, she or it reasonably believed to be in or not opposed to the best interests of the Company and, in connection with any criminal action or proceeding, had no reasonable cause to believe his, her or its conduct was unlawful.

(b) The Company agrees to indemnify any Member, Managing Director or officer who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Company to procure a judgment in its favor, because he, she or it is or was a Member, Managing Director or officer, employee, or agent of the Company. The Company may indemnify or agree to indemnify such Member, Managing Directors or officer against expenses, including attorneys' fees, that were actually and reasonably incurred by him, her or it in connection with the defense or settlement of the action or suit if he, she or it acted in good faith and in a manner he, she or it reasonably believed to be in or not opposed to the best interests of the Company, except that an indemnification shall not be made in respect of any claim, issue, or matter as to which such Member, Managing Director or Officer is adjudged to be liable for negligence or misconduct in the performance of his, her or its duty to the Company unless and only to the extent that a court of competent jurisdiction or the court in which the action or suit was brought determines, upon application, that, despite the adjudication of liability, but in view of all the circumstances of the case, such Member, Managing Director or officer is fairly and reasonably entitled to indemnification for expenses that the court considers proper.

(c) To the extent a Member, Managing Director or officer, employee, or agent of the Company has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 4.5(a) or Section 4.5(b) or has been successful in defense of any claim, issue, or matter in an action, suit, or proceeding referred to in those divisions, he, she or it shall be indemnified against expenses, including attorneys' fees, that were actually and reasonably incurred by him, her or it in connection with the action, suit, or proceeding.

(d) Unless ordered by a court and subject to Section 4.5(c), any indemnification under Section 4.5(a) or Section 4.5(b) shall be made by the Company only as authorized in the specific case, upon a determination by the Company that indemnification of the

Members or Managing Director, officer, employee, or agent is proper under the circumstances because he, she or it has met the applicable standard of conduct set forth in Section 4.5(a) or Section 4.5(b).

(e) The indemnification authorized by this Section 4.5 is not exclusive of and shall be in addition to any other rights granted to those seeking indemnification under this agreement under any statute, provision of the Certificate, consent of disinterested Members or disinterested Managing Directors or otherwise.

(f) The Managing Directors, may to the fullest extent permitted by law authorize the purchase of insurance at the Company's expense to indemnify the Company for any obligation it incurs as a result of the indemnification of Managing Directors, officers and employees and to indemnify or insure Managing Directors, officers and employees against liability in such instances in which they may not otherwise be indemnified by the Company.

5 ACCOUNTING AND BANK ACCOUNTS

5.1 Fiscal Year. The fiscal year and taxable year of the Company shall end on September 30th of each year, unless a different year is required by the Code or otherwise established by the Managing Directors.

5.2 Books and Records. At all times during the existence of the Company, the Company shall cause to be maintained full and accurate books of account, which shall reflect all Company transactions and be appropriate and adequate for the Company's business. The books and records of the Company shall be maintained at the principal office of the Company. The Members (or a Member Representative) shall have the right during ordinary business hours and upon reasonable notice to inspect and copy (at the Member's own expense) all books and records of the Company.

5.3 Bank Accounts. All funds of the Company shall be deposited in a separate bank, money market or similar account(s) approved by the Managing Directors and in the Company's name. Withdrawals therefrom shall be made only by Persons authorized to do so by the Managing Directors.

6 TRANSFERS OR ENCUMBRANCE OF INTERESTS

6.1 Transfer and Assignment of Interests. No Member shall be entitled to Transfer all or any part of his or her Interest in the Company except upon compliance with Section 6.6 hereof and with the prior written consent of Members holding a Majority Interest, which consent may be given or withheld, conditioned or delayed (as allowed by this agreement or the Act), as the other Members may determine in their sole discretion. After the consummation of any Transfer of any part of an Interest, the Interest so Transferred shall continue to be subject to the terms and provisions of this agreement and any further Transfers shall be required to comply with all the terms and provisions of this agreement.

6.2 Substitution of Members. A transferee of an Interest shall have the right to become a substitute Member only if (a) the requirements of Section 6.1 are satisfied, (b) such transferee executes an instrument satisfactory to the Managing Directors accepting and adopting

the terms and provisions of this agreement, and (c) such transferee pays any reasonable expenses in connection with his or her admission as a substitute Member. The admission of a substitute Member shall not result in the release of the Member who assigned the Membership Interest from any liability that such Member may have to the Company.

6.3 Effective Date of Permitted Transfers. Any permitted transfer of all or any portion of an Interest shall be effective as of the first business day following the date upon which the requirements of Sections 6.1 and 6.2 have been met. The Managing Directors shall provide the Members with written notice of such transfer as promptly as possible after the requirements of Sections 6.1 and 6.2 have been met. Any transferee of an Interest shall take subject to the restrictions on transfer imposed by this agreement.

6.4 Rights of Legal Representatives. If a Member is a corporation, trust, or other entity and is dissolved or terminated, the powers of that Member may be exercised by his or her legal representative or successor.

6.5 No Effect to Transfers in Violation of Agreement. Upon any transfer of a Membership Interest in violation of this Article 6, the transferee shall have no right to vote or participate in the management of the business, property and affairs of the Company or to exercise any rights of a Member. Such transferee shall only be entitled to become the owner of an Economic Interest Owner and thereafter shall only receive the share of one or more of the Company's net profits, net losses and Distributions to which the transferor of such Economic Interest would otherwise be entitled. Notwithstanding the immediately preceding sentences, if, in the determination of the Managing Directors, a transfer in violation of this Article 6 would cause the termination of the Company under the Act, in the sole discretion of the Managing Directors, the transfer shall be null and void and the purported transferee shall not become either a Member or the owner of an Economic Interest Owner.

6.6 Tag Along; Drag Along. If at any time one or more Members (the "Selling Member(s)") desires to sell Membership Units representing 40% or more of the Percentage Interests (the "Subject Interest") in one or more series of transactions to a Person that is not an Affiliate of the Selling Member:

(a) The Selling Member(s) will give to each other Member(s) (collectively the "Other Members") a written copy of the terms of sale, including a written description of the Subject Interest, the name of the proposed purchaser, the purchase price and payment terms and other terms offered by the proposed purchaser, and offer the Other Members the right to elect to participate in the sale as a seller of all of such Other Member's Membership Units along with the sale by the Selling Member(s) for the same consideration per percent of Percentage Interest and on the same terms relating to the Membership Units as the Selling Member(s) subject to appropriate adjustments to reflect (i) disproportionate Capital Account balances and (ii) the amount the Members would receive upon a liquidation of the Company in the event the purchase price was received by the Company and distributed to the Members in accordance with Section 3.2 and tax allocations were made (the "Offer"). The Selling Member(s) will give the Other Members a period of 25 days to accept the Offer. The Other Member(s) exercising such right will give written notice of exercise to the Company and the other applicable Members by the end of such 25 day period.

(b) The Selling Member(s) will also have the right to require all (but not less than all) of the Other Members to participate in the sale as sellers of their Membership Units along with the sale by the Selling Member(s) for the same consideration per percent of Percentage Interest and on the same terms relating to the Membership Units as the Selling Member(s) subject to appropriate adjustments to reflect (i) disproportionate Capital Account balances and (ii) the amount the Members would receive upon a liquidation of the Company in the event the purchase price was received by the Company and distributed to the Members in accordance with Section 3.2 and tax allocations were made.

(c) At the closing, each Other Member electing to participate pursuant to subsection (a) above or required to participate pursuant to subsection (b) above will execute and deliver all documents as may be reasonably required to effectuate the transfer of the applicable Membership Units, free and clear of all liens, claims and encumbrances of any type, other than this Agreement, and each such Member will execute such other instruments as may be reasonably required of all participating Members. If (i) the Selling Member(s) exercise the right to require the Other Members to sell their Membership Units along with the Selling Member(s), and (ii) any Other Member actively opposes or refuses to cooperate in such sale, then, in such circumstances, all Selling Members are hereby granted a limited power-of-attorney to act for and in the name of any such Other Member to execute any and all documentation in connection with the sale of the Other Member's Interest that the Selling Member(s) deem necessary to consummate the transaction. All employment, consulting, covenant not to compete and similar payments or amounts to be paid, directly or indirectly, to a Member or its Affiliates by the purchaser or its Affiliates (and not all Members on a Percentage Interest basis) will be limited to reasonable amounts.

7 DISSOLUTION AND TERMINATION

7.1 **Events Causing Dissolution.** The Company shall be dissolved only upon the first to occur of the following events:

- (a) The vote of the Members; or
- (b) Upon the entry of a decree of judicial dissolution under Section 18-802 of the Act.

7.2 **Effect of Dissolution.** Except as otherwise provided in this agreement, upon the dissolution of the Company, the Managing Directors shall take such actions as may be required pursuant to the Act and shall proceed to wind up, liquidate and terminate the business and affairs of the Company, including the designation of a Person to act as the ***Liquidator***. In connection with such winding up, the Liquidator shall have the authority to liquidate and reduce to cash (to the extent necessary or appropriate) the assets of the Company as promptly as is consistent with obtaining fair market value therefor, to apply and distribute the proceeds of such liquidation and any remaining assets in accordance with this agreement, and to do any and all acts and things authorized by, and in accordance with, the Act and other applicable laws for the purpose of winding up and liquidation.

7.3 Application of Proceeds. Upon dissolution and liquidation of the Company, the assets of the Company shall be applied and distributed in the order of priority set forth in Section 3.2.

8 GENERAL MATTERS

8.1 Permissible Relationships. The Members understand that the Company's and the Hospital's operations are subject to various state and federal laws regulating permissible relationships between the Members and entities such as the Company, including 42 U.S.C. 1320a-7b(b) (the *Anti-Kickback Statute*), and 42 U.S.C. 1395nn (the *Stark Act*). It is therefore the intent of the Members and the Company that any agreement, relationship or transaction by and among them, including this agreement, comport with the foregoing statutes and substantially comply with the Anti-Kickback Statute safe harbors, and that the Company and the Hospital operate in a manner consistent with the same. Accordingly, each Member represents and warrants that it has not been excluded or suspended from participation in the Medicare and/or Medicaid programs and no Manager will be designated that is excluded or suspended from such participation.

8.2 Title to the Property. Title to the Property shall be held in the name of the Company. The Members shall not have any ownership interest or rights in the Property, except indirectly by virtue of the Member's ownership of an Interest.

8.3 Nature of Interest in the Company. An Interest shall be personal property for all purposes.

8.4 Notices and Determinations. Any notice or determination required or permitted to be given or made by this agreement or the Act shall be sufficient if given or made in writing.

8.5 No Third Party Rights. None of the provisions contained in this agreement shall be for the benefit of or enforceable by any third parties, including, but not limited to, creditors of the Company; provided, however, the Company may enforce any rights granted to the Company under the Act, the Certificate, or this agreement.

8.6 Amendments to this Agreement. This agreement shall not be modified or amended in any manner except in a writing signed by the Members.

8.7 Rules of Construction. This agreement is interpreted in accordance with the rules of construction set forth on the attached Schedule 1.

8.8 Severability. If any provision of this agreement is held to be illegal, invalid or unenforceable to any extent, the legality, validity and enforceability of the remainder of this agreement shall not be affected thereby and shall remain in full force and effect and shall be enforced to the greatest extent permitted by law.

8.9 Binding Agreement. The provisions of this agreement are binding upon, and will inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

HMC/CAH CONSOLIDATED, INC.

By: 
Steve Dunn
Its: Vice Chairman

Notice Address: c/o White Goss
4510 Belleview Suite 300
Kansas City, MO 64111
Attn: Kimberley Spies

Schedule 1

Definitions; Rules of Construction

1. **Defined Terms.** As used herein, the following terms have the following meanings:

(a) ***Act*** means the Delaware Limited Liability Company Act, as amended from time to time.

(b) ***Available Cash*** means the aggregate amount of cash on hand or in bank, money market or similar accounts of the Company as of the end of each fiscal quarter derived from any source (other than capital contributions and Liquidation Proceeds) that the Managing Directors determine is available for distribution to the Members after taking into account any amount required or appropriate to maintain a reasonable amount of reserves.

(c) ***Capital Account*** means the account established and maintained by the Company for a Member.

(d) ***Code*** means the Internal Revenue Code of 1986, as amended from time to time.

(e) ***Confidential Information*** means any and all policies, procedures, contracts, quality assurance techniques, managed care initiatives, utilization management, patient records, credentialing, financial, statistical and other information of the Company, including (but not limited to) information embodied on magnetic tape, computer software or any other medium for the storage of information, together with all notes, analyses, compilations, studies or other documents prepared by the Company or others on behalf of the Company containing or reflecting such information. Confidential Information does not include information which:

(i) was lawfully made available to or known by third persons on a non-confidential basis prior to disclosure by a Member;

(ii) is or becomes publicly known through no wrongful act of a Member; or

(iii) is received by a Member other than in breach of confidence.

(f) ***Distributions*** mean any distributions of Available Cash, dividends, interest and other cash payments with respect to a Member's Interest, and any non-cash distributions in respect to a Member's Interest, including without limitation all other or additional Interests or other securities or property (other than cash) distributed by way of dividend or distribution in respect of a Member's Interest (i) by way of split, spin-off, split-up, recapitalization, reclassification, combination of interest, or similar rearrangement or (ii) by reason of any liquidation consolidation, merger, exchange, exchange offers, conveyance of assets, exercise of options, contribution of capital, liquidation or similar reorganization.

(g) **Economic Interest** shall mean a Member's or the owner of Economic Interest share of one or more of the Company's net profits, net losses, and Distributions of the Company's assets pursuant to this agreement and the Act, but shall not include any other rights of a Member, including, without limitation, the right to vote or participate in the management, or except as provided in the Act, any right to information concerning the business and affairs of Company.

(h) **Income and Loss** mean, respectively, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with the Code.

(i) **Interest** shall mean a Member's entire interest in the Company including the Member's share of one or more of the Company's Income and Loss, and Distributions, the right to vote on or participate in the management of the Company, and the right to receive information concerning the business and affairs, of the Company, all pursuant to this agreement and the Act.

(j) **Liquidation Proceeds** means all Property at the time of liquidation of the Company and all proceeds thereof.

(k) **Majority Interest** means Members which taken together exceed 50% of the aggregate of all Percentage Interests.

(l) **Medicaid** means the medical assistance program established by Title XIX of the Social Security Act (42 USC §§1396 et seq.) and any statutes succeeding thereto, as applicable to the Hospital.

(m) **Medicare** means the health insurance program for the aged and disabled established by Title XVIII of the Social Security Act (42 USC §§1395 et seq.) and any statutes succeeding thereto.

(n) **Percentage Interest** for each Member means the number of units of Interest of such Member divided by the total number of units of Interest then issued and outstanding.

(o) **Person** means any individual, partnership, limited liability company, Company, cooperative, trust or other entity.

(p) **Property** means all properties and assets that the Company may own or otherwise have an interest in from time to time.

(q) **Transfer** means when used as a verb, to give, sell, exchange, assign, transfer, pledge, hypothecate, bequeath, devise or otherwise dispose of or encumber, and when used as a noun, the nouns corresponding to such verbs, in either case voluntarily or involuntarily, by operation of law or otherwise.

(r) **UCC** means the Uniform Commercial Code as in effect in the State of Delaware from time to time.

2. Rules of Construction. Unless the context clearly requires otherwise:

(a) Words denoting the singular only are deemed to include the plural and vice versa;

(b) Words denoting one gender are deemed to include all genders;

(c) References to articles, sections and schedules, exhibits or appendices are to articles, sections of and schedules or appendices to this agreement and a reference to a subsection is, unless otherwise indicated, deemed to be a reference to a subsection of the section in which the reference appears;

(d) Headings to sections are for convenience only and are to be ignored in construing this agreement;

(e) References to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context clearly requires otherwise;

(f) Except to the extent that the context otherwise requires, any reference in this agreement to any agreement, deed or instrument is a reference to such agreement, deed or instrument as amended, supplemented, restated or otherwise modified from time to time and includes a reference to any document which amends, supplements, restates, modifies or is entered into, made or given pursuant to or in accordance with any of the terms of such agreement, deed or instrument;

(g) The words “include”, “includes” and “including” are deemed to be followed by the phrase “without limitation”; and

(h) The words “herein”, “hereof” and “hereunder”, and words of similar import, are construed to refer to this agreement in its entirety and not to any particular provision hereof.

(i) All Members participated equally in the negotiation and drafting of this agreement. Any ambiguity in interpretation or application of the terms and provisions of this agreement cannot be construed against any Member.

Schedule 2

Interests

<u>Member</u>	<u>Interests</u>
Health Acquisition Company LLC	80
HMC/CAH Consolidated, Inc.	20

EXHIBIT E

Kimberley Spies

From: Steve White <swhite@whitepllc.com>
Sent: Sunday, March 05, 2017 5:26 PM
To: Kimberley Spies
Cc: Jim Shaffer; Paul Nusbaum
Subject: HLP/EmpowerH.I.S.

Kim:

This is in response to your 3/2/17 correspondence.

As you are aware, RCHA has put in place expanded laboratory services at the Drumright and Washington County hospitals through previous agreements with VerifiLabs, those agreements have been successful and have generated net revenues to HMC hospitals in excess of \$ 200,000 per month at each facility--at volumes far below volumes HLP and/or its affiliates are providing at other hospitals around the country. VerifiLabs does not have the ability to provide the volume of specimens in

order to expand the program to all of the HMC hospitals. More importantly, the future long term success of hospital outreach laboratory efforts will be assured if specimen collections are obtained from individuals who reside in the state where the hospitals are located or from individuals in adjacent states--the proposed agreement is based on receiving specimens primarily from instate individuals--RCHA has discussed and evaluated possible lab services expansion with over 20 different entities and

HLP was one of only two companies that had the ability to send specimens to our hospitals from instate individuals and more importantly provided all lab testing/analysis of the specimens onsite at HMC hospitals to assure that the proposed effort is

100% compliant with all applicable federal, state and third party payer requirements.

See Putnam County Mo. State Auditor

It is important to note that RCHA's recommendation of the proposed agreement has involved significant due diligence since November and included onsite visits to the EnpowerHIS offices, a demonstration of the billing system provided to RCHA

billing management staff, onsite visits to two of the hospitals wherein HLP and/or its affiliates currently provides lab services (including a facility in Unionville, Missouri attended by RCHA's President, Chief Operating Officer and VP for Clinical Services

--this facility is a Critical Access Hospital on the brink of closure last summer and survived and thrived based in part to the lab services expansion put in place). RCHA was able to actually see the millions of dollars in lab equipment that has been

put in place at other critical access hospitals by the proposed lab partner and more importantly RCHA was able to personally and privately talk with personnel, including physicians and nurses, to determine the proposed company actually did what

they said they had done. The company also made an onsite visit to the HMC facility in Tennessee and met with our laboratory staff at that facility and shared with HMC personnel at that facility possible plans for expansion of services--the company's laboratory experts provided to HMC lab staff advice as to how they could more cost effectively and efficiently improve existing lab services. HMC personnel were greatly impressed with the company's knowledge and experience and looked forward to the expertise and future consulting advice.

NOT TRUE
ONLY Paul

In addition, RCHA senior staff responsible for the current lab services and our lawyer/chief compliance officer participated in a conference call with this company and our team believes the proposed company brings to HMC a level of expertise for lab services and other ancillary efforts that will bring great benefit to HMC hospitals in terms of improved services and a significant improvement in net cash flow.

With the above in mind, please see RCHA's response to your questions--several lab company representatives will be attending the Board Meeting on Monday so that any and all questions/concerns can be addressed.

1. Background information and history on the entities: Hospital Laboratory Partners, LLC and Empower H.I.S., LLC;

As was presented in the cover letter to the proposed lab agreement, Hospital Laboratory Partners LLC, is forged from a partnership between world class industry leaders in the fields of healthcare information technology who are focused on eliminating the waste and inefficiency in the healthcare industry today. Through the years, the HLP team has grown to become extremely proficient in hospital medical coding, billing, management, software development, laboratories, and compliance.

While many hospitals and hospital laboratories struggle to survive, HLP continues to post profitable results month after month. Success is due in large part because the principals of HLP, Jorge Perez, Jim Porter, and Sean Porter, each bring a unique perspective and a distinctive skill set to the company. Jorge Perez brings the technology, billing and hospital management components to HLP, while brothers Jim and Sean Porter bring the laboratory development, design and science.

Empower H.I.S. LLC. Owned by the Perez family, Empower H.I.S is an industry leader in hospital and laboratory billing. With over 250 full time billing and coding specialists, working 24 hours a day in three shifts, Empower H.I.S., is able to accurately process high volume claims with an average claim submission to remittance of 14 days. In addition to the full-time billing and coding experts, the company has an additional 75 employees that provide full time software development, implementation and support.

2. Biographies of the principals involved;

Jorge Perez has an interest in the following companies. Each company stands on its own, and while they may benefit from related ownership, they are not joined under one corporate umbrella, and each do not have identical ownership.

- National Alliance for Rural Hospitals- Not for Profit
- Florida Rural Hospital Alliance- Not for Profit
- MedxGroup LLC
- LifeBrite Hospital Group LLC
- Rural Health Partners LLC

- Rural Health Partners, DQ LLC
 - Reach Laboratory Services LLC
 - Reach Recovery LLC
 - Empower H.I.S. LLC
 - Hospital Partners LLC
 - Regional Health Partners LLC

Jorge Perez has spearheaded one of the most utilized and comprehensive medical wellness applications and telemedicine programs. Currently there are over 6 million individuals utilizing the medical wellness application overseas, and it is set to be fully rolled out in the United States in 2017.

Jim Porter- Jim Porter is the Managing Member of RAJ Enterprises of Central Florida, LLC the parent company of Pinnacle Laboratories, as well as a managing member of HLP LLC. The former Chief of Staff of the Florida Agency for Healthcare

Administration recently called Jim Porter the most knowledgeable individual he knew in both the clinical laboratory, and hospital outreach laboratory business--RCHA's President Paul Nusbaum and a former Cabinet Secretary of WV's Department of Health and Human Resources actually met with Florida's former state official and has had other telephone conversations with that individual and has confirmed that HLP personnel are highly knowledgeable and provide high quality and compliant services and as important, are interested in improving the quality and financial viability of rural hospitals throughout the US.

3. Analysis of estimated costs and revenues.

The 65% is from the amount of cash actually received on a weekly basis. HLP is paying the expenses--this program does not require any of the HMC hospitals to expend upfront dollars it doesn't have.

4. What hospitals do these entities currently have contracts with? Have any models been received for those hospitals? Based on experiences of other hospitals, what are the operating costs?

Regional General Hospital in Williston, FL,
Putnam General Hospital in Unionville, Missouri
Chestatee in Dahlonega, Georgia,
Stokes in Danbury, North Carolina
Latimer County General Hospital in Wilburton, Oklahoma (Initial staffing, and validation phase)
Jefferson Hospital, Louisville, Georgia
DeQueens Medical Center, DeQueens Arkansas (initial staffing, and validation phase)

The operating cost vary based on types and quantity of specimen being processed.

5. Has RCHA received any opinions for these agreements from its counsel regarding compliance with anti-kickback or other federal regulations?

RCHA counsel and chief compliance officer will opine that this proposed effort is compliant and as part of RCHA's responsibilities under its management contract, once implemented we will constantly undertake efforts to ensure that this effort always exceeds all appropriate legal requirements--from an operational standpoint, RCHA has undertaken an extensive review of all published materials regarding compliance, etc. The proposed agreement is modeled after the existing VerifiLabs agreement. We have reviewed all

applicable federal and state regulations regarding anti-kickback and Stark and based on both our operational expertise and internal legal review, concerns about compliance have been addressed. In addition, it is important to note that the proposed agreement includes a no cause 90 day cancellation provision and along with the fact that HMC will not be required to put up any upfront capital, it should be clear the RCHA has negotiated an agreement that protects both HMC's and RCHA's interests. Lastly, it is important to note that included in the proposed agreement is an indemnification provision by HLP that protects HMC hospitals should any action undertaken by HLP be determined to be in violation of any federal, state or third party requirements.

RCHA looks forward to any comments you might have regarding language in the agreement and once the HMC Board approves the substance of what is proposed, we will negotiate changes as proposed with HLP and EmpowerHIS.

Thank you again for your review and assistance on this matter.

Steve

On Mar 2, 2017, at 5:03 PM, Kimberley Spies <kspies@whitegoss.com> wrote:

Steve,

We received the laboratory services agreement documents Wednesday afternoon and are asked to review and make a report to HMC/CAH. Please provide all due diligence which RCHA has performed on this matter so we do not duplicate efforts with the analysis you have already conducted.

This includes the following:

1. Background information and history on the entities: Hospital Laboratory Partners, LLC and Empower H.I.S., LLC;
2. Biographies of the principals involved;
3. Analysis of estimated costs and revenues. For example have pro-formas been prepared showing what costs are expected to be deducted in computing the fees paid to HLP of 65% of "net laboratory reimbursements" and determining the remaining amount due to HMC/CAH?
4. What hospitals do these entities currently have contracts with? Have any models been received for those hospitals? Based on experiences of other hospitals, what are the operating costs?

5. Has RCHA received any opinions for these agreements from its counsel regarding compliance with anti-kickback or other federal regulations?

Our due diligence is not limited to this list. If there is any other information that would assist HMC/CAH in analyzing these agreements, I would appreciate receiving it.

Thank you,

Kim

Kimberley S. Spies

WHITE | GOSS

4510 Belleview Avenue | Suite 300

Kansas City | Missouri 64111

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EXHIBIT F

Meeting Minutes

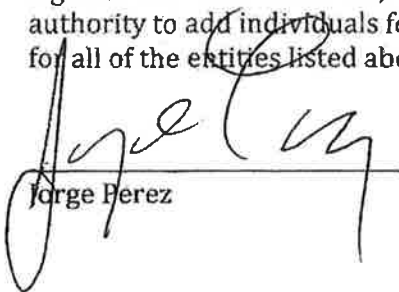
On August 3, 2017, the governing members of the following entities convened a conference call:

Health Acquisition Company, LLC (HAC), CAH Acquisition Company #1, LLC d/b/a Washington County Hospital, CAH Acquisition Company #2, LLC d/b/a Oswego Community Hospital, CAH Acquisition Company #3, LLC d/b/a Horton Community Hospital, CAH Acquisition Company #4, Inc. d/b/a Drumright Regional Hospital, CAH Acquisition Company #5, LLC d/b/a Hillsboro Community Hospital, CAH Acquisition Company #6, LLC d/b/a I-70 Community Hospital, CAH Acquisition Company #7, LLC d/b/a Prague Community Hospital, CAH Acquisition Company #11, LLC d/b/a Lauderdale Community Hospital, CAH Acquisition Company #12, LLC d/b/a Fairfax Community Hospital, CAH Acquisition Company #16, LLC d/b/a Haskell County Community Hospital, CAH Acquisition Company #5, LLC formerly d/b/a Yadkinville Community Hospital, CAH Acquisition Company #9, LLC formerly d/b/a Seiling Community Hospital

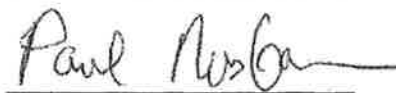
The purpose of the meeting was to discuss all matters in which the above entities have or may have with financial entities each does business with including all checking accounts involving deposits by each entity and payroll/operational expense accounts. In addition, the discussion included relationships with all banks and other lending entities or guarantors involving existing and future loans on behalf of each entity.

The meeting included extensive discussion and review of all documents involving the conversion of debt by HAC to 80% ownership in the membership interests of all of HMC entities, the 3/29/17 closing documents on each conversion, the HAC Amended and Restated Operating Agreements, the Amended and Restated Operating Agreements of each of the individual hospital entities and the 3/29/17 Operating Agreements Certification Page wherein HMC assigned all of the provisions of the operating agreements to HAC and HAC accepted the authority to act on behalf of all of the above entities.

The members moved that Primary Manager Jorge Perez be authorized to act on behalf on HAC and any/all of the individual hospital entities listed above on all matters relating to bank accounts and lending matters including relationships with all banks and governmental entities. This authorization includes signing any and all legal documents and checks, etc. In addition, the Managers granted to Mr. Perez authority to add individuals for purposes of signing check on any and all accounts for all of the entities listed above. Authorized this 3rd day of August, 2017:



Jorge Perez



Paul Nusbaum